

RAVALLI COUNTY SUBDIVISION REGULATIONS

Recorded August 25, 2000

December 4, 2002 – Amendments to Chapter 8 Variances

August 6, 2003 – Amendments to Chapter 5, Section 5-4-5(d)

July 28, 2005 – Amendments to Chapter 6, Section 6-1-7

August 4, 2005 – Amendments to Chapters 1, 2, 3 & 5

May 8, 2006 – Amendments to Chapter 7: Fee Schedule

November 20, 2006 – Amendments to Chapters 1, 2, 3, & 4. Minor revisions to Chapter 5.
Repeal of Chapters 7 (Fee Schedule is now a separate document), 9, 10, and the Appendices

December 22, 2006 – Amendments to Chapters 3 & 6. Replacement of Chapter 8.

May 24, 2007 – Amendments to Chapters 2, 3, 4, 5, 6, and 7

For additional information, please contact the Ravalli County Planning Department,
215 South 4th Street, Suite F, Hamilton, Montana 59840

Phone: (406) 375-6530

Fax: (406) 375-6531

www.ravallicounty.mt.gov

planning@ravallicounty.mt.gov

Lisa Bennett

**RAVALLI COUNTY
BOARD OF COUNTY COMMISSIONERS
RESOLUTION NO. 2110**

RESOLUTION TO AMEND THE RAVALLI COUNTY SUBDIVISION REGULATIONS

WHEREAS, the purposes of the Ravalli County Subdivision Regulations are to promote the public health, safety, and general welfare by regulating the subdivision of land; to prevent the overcrowding of land; to lessen congestion in the streets and highways; to provide for adequate light, air, water supply, sewage disposal, parks and recreation areas, ingress and egress, and other public requirements; to require development in harmony with the natural environment; to promote preservation of open space; to promote cluster development approaches that minimize costs to local citizens and that promote effective and efficient provision of public services; to protect the rights of property owners; and to require uniform monumentation of land subdivisions and transferring interests in real property by reference to a plat or certificate of survey (76-3-102, MCA); and

WHEREAS, amendments to the Ravalli County Subdivision Regulations were required in order to comply with state law and to be consistent with other recent amendments to the subdivision regulations; and

WHEREAS, other modifications have been deemed proper and beneficial to the County of Ravalli and its residents; and

WHEREAS, the Ravalli County Commissioners have, after following proper legal procedures and requirements pursuant to 76-3-503, MCA, received public testimony on proposed amendments to the Ravalli County Subdivision Regulations and conducted a public hearing on the proposed amendments on May 24, 2007; and

WHEREAS, the Ravalli County Commissioners are the governing body authorized to make changes to the County's subdivision regulations;

NOW, THEREFORE, BE IT RESOLVED that the Ravalli County Board of County Commissioners, pursuant to 76-3-503 MCA, hereby adopts this Resolution to Amend the Ravalli County Subdivision Regulations with those changes included in Attachment 1 of this Resolution as follows:

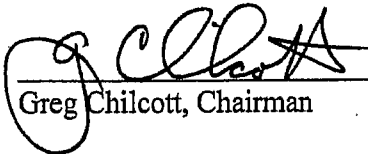
1. Chapters 2, 3, and 5 revised to require developers to improve any non County-maintained roads leading to a subdivision to meet the road standards and pay the pro rata share on any County-maintained roads leading to the subdivision;
2. The definition of pro rata share clarified in Chapter 2;
3. Pre-application conference requirements, subdivision application requirements, and final plat application requirements modified in Chapter

Ret: Commissioners Office

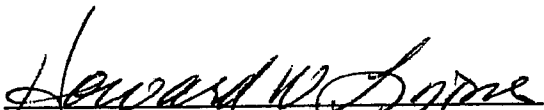
- 3, as recommended by the Planning Department and other County agencies;
4. Chapter 4 modified to reflect current state law;
5. Chapter 5 modified to correct references and as recommended by the Ravalli County Weed Board;
6. Chapter 6 modified to reflect current state law; and
7. Chapter 8 changed to Chapter 7.

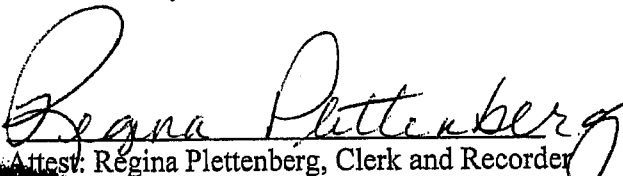
PASSED AND ADOPTED this 24th day of May 2007.

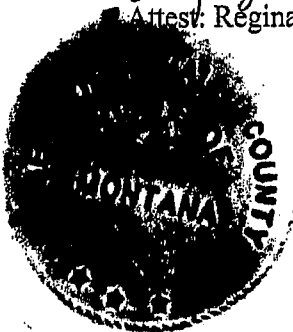
RAVALLI COUNTY BOARD OF COUNTY COMMISSIONERS

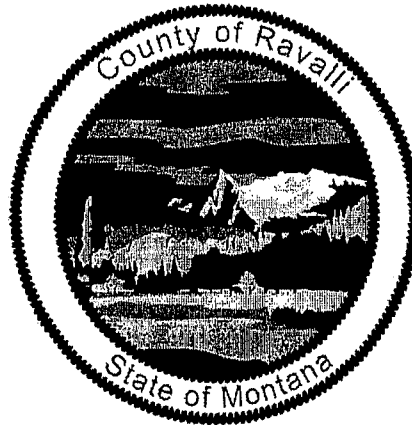

Greg Chilcott, Chairman


Alan Thompson, Member


Howard W. Lyons, Member


Attest: Regina Plettenberg, Clerk and Recorder





RAVALLI COUNTY SUBDIVISION REGULATIONS

Recorded August 25, 2000

December 4, 2002 – Amendments to Chapter 8 Variances

August 6, 2003 – Amendments to Chapter 5, Section 5-4-5(d)

July 28, 2005 – Amendments to Chapter 6, Section 6-1-7

August 4, 2005 – Amendments to Chapters 1, 2, 3 & 5

May 8, 2006 – Amendments to Chapter 7: Fee Schedule

November 20, 2006 – Amendments to Chapters 1, 2, 3, & 4. Minor revisions to Chapter 5.
Repeal of Chapters 7 (Fee Schedule is now a separate document), 9, 10, and the Appendices

December 22, 2006 – Amendments to Chapters 3 & 6. Replacement of Chapter 8.

May 24, 2007 – Amendments to Chapters 2, 3, 4, 5, 6 & 8. Addition of Exhibit A: List of
County-Maintained Roads

For additional information, please contact the Ravalli County Planning Department,
215 South 4th Street, Suite F, Hamilton, Montana 59840

Phone: (406) 375-6530

Fax: (406) 375-6531

www.ravalliacounty.mt.gov

planning@ravalliacounty.mt.gov

Tenard Miller

RAVALLI COUNTY
BOARD OF COUNTY COMMISSIONERS
RESOLUTION NO. 2019

RESOLUTION TO AMEND THE RAVALLI COUNTY SUBDIVISION REGULATIONS

WHEREAS, the purposes of the Ravalli County Subdivision Regulations are to promote the public health, safety, and general welfare by regulating the subdivision of land; to prevent the overcrowding of land; to lessen congestion in the streets and highways; to provide for adequate light, air, water supply, sewage disposal, parks and recreation areas, ingress and egress, and other public requirements; to require development in harmony with the natural environment; to promote preservation of open space; to promote cluster development approaches that minimize costs to local citizens and that promote effective and efficient provision of public services; to protect the rights of property owners; and to require uniform monumentation of land subdivisions and transferring interests in real property by reference to a plat or certificate of survey (76-3-102, MCA); and

WHEREAS, amendments to the Ravalli County Subdivision Regulations were required in order to comply with state law and to be consistent with other recent amendments to the subdivision regulations; and

WHEREAS, other modifications have been deemed proper and beneficial to the County of Ravalli and its residents; and

WHEREAS, the Ravalli County Commissioners have, after following proper legal procedures and requirements pursuant to 76-3-503, MCA, received public testimony on proposed amendments to the Ravalli County Subdivision Regulations and conducted a public hearing on the proposed amendments on December 22, 2006; and

WHEREAS, the Ravalli County Commissioners are the governing body authorized to make changes to the County's subdivision regulations;


NOW, THEREFORE, BE IT RESOLVED that the Ravalli County Board of County Commissioners, pursuant to 76-3-503 MCA, hereby adopts this Resolution to Amend the Ravalli County Subdivision Regulations with those changes included in Attachment 1 of this Resolution as follows:

1. Correct an amendment made 11/20/06 to Section 3-1-6(a)(xlili) regarding floodplain analysis and waiver application requirements;
2. Add parkland dedication options to Chapter 6. Park Requirements to reflect current state law; and
3. Revise Chapter 8. Variances to address various sections to reflect recent amendments, state law and changes to the limitations on variances.

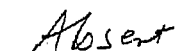
Amends Document 581256
Ret: Commissioners Office

PASSED AND ADOPTED this 22nd day of December 2006.

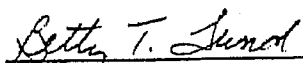
RAVALLI COUNTY BOARD OF COUNTY COMMISSIONERS



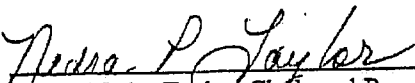
Greg Chilcott, Chairman



Alan Thompson, Member



Betty T. Lund, Member



Attest: Nedra Taylor, Clerk and Recorder



RAVALLI COUNTY
BOARD OF COUNTY COMMISSIONERS

RESOLUTION NO. 2006

RESOLUTION TO AMEND THE RAVALLI COUNTY SUBDIVISION REGULATIONS

WHEREAS, the purposes of the Ravalli County Subdivision Regulations are to promote the public health, safety, and general welfare by regulating the subdivision of land; to prevent the overcrowding of land; to lessen congestion in the streets and highways; to provide for adequate light, air, water supply, sewage disposal, parks and recreation areas, ingress and egress, and other public requirements; to require development in harmony with the natural environment; to promote preservation of open space; to promote cluster development approaches that minimize costs to local citizens and that promote effective and efficient provision of public services; to protect the rights of property owners; and to require uniform monumentation of land subdivisions and transferring interests in real property by reference to a plat or certificate of survey (76-3-102, MCA); and

WHEREAS, amendments to the Ravalli County Subdivision Regulations were required in order to comply with statutory changes resulting from such bills as Senate Bill 116 and Senate Bill 290; and

WHEREAS, other modifications have been deemed proper and beneficial to the County of Ravalli and its residents; and

WHEREAS, the Ravalli County Commissioners have, after following proper legal procedures and requirements pursuant to 76-3-503, MCA, received public testimony on proposed amendments to the Ravalli County Subdivision Regulations; and

WHEREAS, the Ravalli County Commissioners are the governing body authorized to make changes to the County's subdivision regulations;

NOW, THEREFORE, BE IT RESOLVED that the Ravalli County Board of County Commissioners, pursuant to 76-3-503 MCA, hereby adopts this Resolution to Amend the Ravalli County Subdivision Regulations as follows:

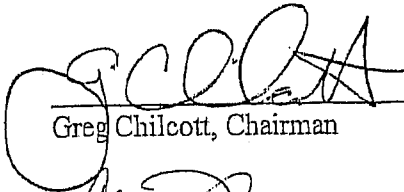
1. Repeal current Chapter 1 and replace with Chapter 1 in Attachment 1
2. Repeal current Chapter 2 and replace with Chapter 2 in Attachment 1
3. Repeal current Chapter 3 and replace with Chapter 3 in Attachment 1
4. Repeal current Chapter 4 and replace with Chapter 4 in Attachment 1
5. Amend relevant provisions in current Chapter 5 as outlined in Attachment 1
6. Repeal Chapter 7 and adopt the fee schedule as a separate document
7. Repeal Chapters 9 & 10
8. Repeal the Appendices

Resolution NO 2006 page 1 with Attachment #1

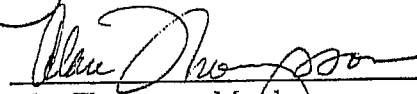
Ret: Commissioners Office

PASSED AND ADOPTED this 20th day of November, 2006.

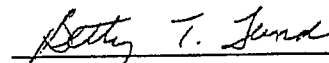
RAVALLI COUNTY BOARD OF COUNTY COMMISSIONERS



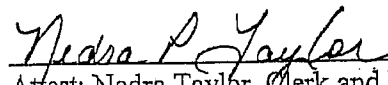
Greg Chilcott, Chairman



Alan Thompson, Member



Betty T. Lund, Member



Attest: Nedra Taylor, Clerk and Recorder



Resolution No 2006 page 2 with Attachment #1

RAVALLI COUNTY
BOARD OF COUNTY COMMISSIONERS
RESOLUTION NO. 1719

RESOLUTION TO AMEND THE RAVALLI COUNTY SUBDIVISION REGULATIONS

WHEREAS, the Ravalli County Subdivision Regulations are intended to describe the procedures and requirements necessary to divide land into two or more parcels and to record plats and surveys with the County; and

WHEREAS, the Ravalli County Commissioners have, after following proper legal procedures and pursuant to 76-3-503 MCA, received public testimony on proposed amendments to the Ravalli County Subdivision Regulations regarding road and related standards; and

WHEREAS, the Ravalli County Commissioners adopted a Resolution of Intent to amend the subdivision regulations on July 12, 2005; and

WHEREAS, the Ravalli County Commissioners are the governing body authorized to make changes to the County's subdivisions regulations; and

WHEREAS, the Ravalli County Subdivision Regulations and these amendments are intended to lessen congestion in the streets, prevent overcrowding, provide for adequate light, air, water supply and sewage disposal, provide for parks and recreation areas, ingress and egress and other public requirements; and are found to be in the best interest of the public, including the health, safety, and welfare of County residents;

NOW, THEREFORE, BE IT RESOLVED that the Ravalli County Board of County Commissioners, pursuant to 76-3-503 MCA, hereby adopts this Resolution to Amend the Ravalli County Subdivision Regulations as outlined in Attachment One.

PASSED AND ADOPTED this 4th day of August, 2005.

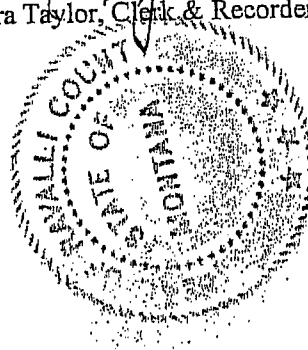
RAVALLI COUNTY BOARD OF COUNTY COMMISSIONERS

Greg Chilcott
Greg Chilcott, Chairman

Alan Thompson
Alan Thompson, Member

Betty T. Lund
Betty T. Lund, Member

Nedra P. Taylor
Attest: Nedra Taylor, Clerk & Recorder



STATE OF MONTANA RAVALLI COUNTY
RECORDED: 08/02/2005 1:50 RESOLUTION

557414

Page 1 of 1

CLERK AND RECORDER BY: Nedra P. Taylor FEE: \$0.00

RAVALLI COUNTY
BOARD OF COUNTY COMMISSIONERS
RESOLUTION OF ADOPTION NO. 1714

RESOLUTION TO AMEND THE RAVALLI COUNTY SUBDIVISION REGULATIONS

WHEREAS, the Ravalli County Subdivision Regulations are intended to describe the procedures and requirements necessary to divide land into two or more parcels and to record plats and surveys with the County; and

WHEREAS, the Ravalli County Commissioners have, after following proper legal procedures and pursuant to 76-3-503 MCA, received public testimony on proposed amendments to the Ravalli County Subdivision Regulations regarding cash-in-lieu of parkland dedications; and

WHEREAS, the Ravalli County Commissioners adopted Resolution of Intent Number 1714; and

WHEREAS, the Ravalli County Commissioners are the governing body authorized to make changes to the County's subdivisions regulations; and

WHEREAS, the Ravalli County Subdivision Regulations and these amendments are intended to lessen congestion in the streets, prevent overcrowding, provide for adequate light, air, water supply and sewage disposal, provide for parks and recreation areas, ingress and egress and other public requirements; and are found to be in the best interest of the public, including the health, safety, and welfare of County residents; and

WHEREAS, the Ravalli County Park Board and the Department of Revenue have recommended that the Board of County Commissioners adopt the proposed changes (attached) to the calculations of cash-in-lieu of parkland dedication; and

WHEREAS, Ravalli County's growth rate continues to exceed the County's ability to provide for adequate parks and recreation through the existing method of determining cash-in-lieu of parkland donations;

NOW, THEREFORE, BE IT RESOLVED that the Ravalli County Board of County Commissioners, pursuant to 76-3-503 MCA, hereby adopts this Resolution of Adoption to Amend the Ravalli County Subdivision Regulations as outlined in Attachment One.

PASSED AND ADOPTED this 28th day of July, 2005.

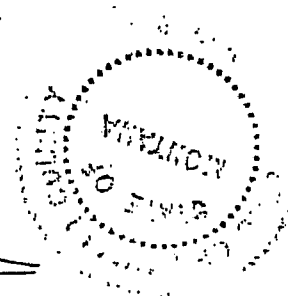
RAVALLI COUNTY BOARD OF COUNTY COMMISSIONERS

Greg Chilcott
Greg Chilcott, Chairman

Alan Thompson
Alan Thompson, Member

Betty T. Lund
Betty T. Lund, Member

Nedra P. Taylor
Attest: Nedra Taylor, Clerk & Recorder
by Monckchristian Deputy



Ret: Commissioners

*C & R Note = Attachment One
not included at time of filing*

STATE OF MONTANA RAVALLI COUNTY
RECORDED: 08/25/2000 8:33 RESOLUTION

469260

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CLERK AND RECORDER BY: Tena L. Miller FEE: \$0.00
Betty T. Lund

RESOLUTION NO. 1085
Amending Subdivision Regulations

WHEREAS, after proper legal notice, the BOARD OF RAVALLI COUNTY COMMISSIONERS held a public hearing on June 28, 2000 in order to take public comment on the proposed adoption of the amendments to the Ravalli County Subdivision Regulations; and

WHEREAS, both proponents and opponents were allowed to comment, both at the public hearing and by written comment; and

WHEREAS, the BOARD OF COUNTY COMMISSIONERS deem the attached amendments to be beneficial to the County of Ravalli and its residents; and

WHEREAS, the BOARD OF COUNTY COMMISSIONERS has reviewed the facts concerning subdivisions within Ravalli County and have reached findings that are included within the Subdivision Regulations;

THEREFORE BE IT RESOLVED THAT THE RAVALLI COUNTY SUBDIVISION REGULATIONS BE AMENDED AS ATTACHED.

PASSED AND APPROVED THIS 28th DAY OF JUNE 2000.
BOARD OF COUNTY COMMISSIONERS

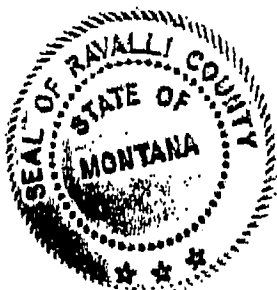
John M. Atthowe Jr.
John M. Atthowe Jr. Chairman

Alan Thompson
Alan Thompson, Member

"Smut" Warren
"Smut" Warren, Member

Betty T. Lund
Attest: Clerk & Recorder

Resolution No. 1085
Pages 1 of 36 pages



History of Adoption and Amendment

HISTORY OF ADOPTION AND AMENDMENT

Resolution Number	Date	Purpose
Unnumbered	July 3, 1969	Adopt standards for new roads to be maintained by Ravalli County
Unnumbered	December 4, 1969	Added certain criteria to determine when a road in a subdivision could be accepted by the County into the maintenance system.
Unnumbered	March 5, 1970	Adopt standards for utilities and fences within County right-of-way.
Unnumbered	July 21, 1970	Adopt standards for accesses onto county roads.
Unnumbered	April 22, 1976	Adopt subdivision regulations.
194	July 25, 1978	Adopt a policy to determine the fair market value for cash-in-lieu payment.
207	November 16, 1978	Revise road requirements.
213	February 28, 1979	Adopt evasion criteria.
215	March 12, 1979	Various amendments.
216	April 4, 1979	Revise fee schedule.
Unnumbered	December 14, 1981	Various amendments.
347	February 19, 1985	Various amendments.
347 (amended)	October 19, 1989	Amend evasion criteria for use of occasional sale exemptions.
521	February 28, 1990	Require that all taxes leveled and assessed must be paid before a plat or certificate of survey may be filed.
Unknown	January 9, 1991	Various amendments.
626	July 28, 1992	Revise fee schedule.
654	June 22, 1993	Eliminate the occasional sale exemption, revise the definition of subdivision and driveway, create a procedure and standards for expedited subdivisions, revise road standards, revise park dedication requirements.
871	January 31, 1997	Amend subdivision regulations. Some of the changes were mandated by House Bills 292, 425, 473, and 521 and Senate Bills 254 and 423 in the 54th (1995) Montana Legislature.

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~~CHAPTER 9: DESIGN WAIVERS~~ *Repealed 11/20/06.*

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Chapter 1

General Provisions

CHAPTER 1. GENERAL PROVISIONS

1-1. TITLE

These regulations will be known and may be cited as "The Ravalli County Subdivision Regulations" (RCSR), hereinafter referred to as "these regulations" or "this code."

1-2. AUTHORITY

Authorization for these regulations is contained in the Montana Subdivision and Platting Act (MSPA). [Title 76, Chapter 3, MCA.].

1-3. PURPOSE

These regulations are consistent with Title 76, Chapter 3, Part 5, MCA and the Ravalli County Growth Policy, and are intended to reasonably provide for:

- a. The orderly development of their jurisdictional areas;
- b. The coordination of roads within subdivided land with other roads, both existing and planned;
- c. The dedication of land for roadways and for public utility easements;
- d. The improvement of roads;
- e. The provision of adequate open spaces for travel, light, air, and recreation;
- f. The provision of adequate transportation, water, and drainage;
- g. The regulation of sanitary facilities, subject to the provisions of 76-3-511;
- h. The avoidance or minimization of congestion; and
- i. The avoidance of subdivisions that would involve unnecessary environmental degradation and danger of injury to health, safety, or welfare by reason of natural hazard or the lack of water, drainage, access, transportation, or other public services or that would necessitate an excessive expenditure of public funds for the supply of the services.

1-4. JURISDICTION

These regulations govern the subdivision of land within the jurisdictional area of the governing body of Ravalli County.

If a proposed subdivision lies within one mile of a third-class city or town or within two miles of a second-class city or within three miles of a first-class city, the County must submit the subdivision application to the city or town governing body or its designated agent for review and comment. Refer to Sections 3-2-4(b)(v) and 3-3-4(b)(v) for notice requirements. If a proposed subdivision lies partly within an incorporated city or town, the subdivision application must be submitted to, and approved by, both the city or town and the county governing bodies.

If a proposed subdivision is located in a rural school district, the County shall provide a summary of the information contained in the subdivision application and preliminary plat to school district trustees.

When a proposed subdivision is also proposed to be annexed to a municipality, the governing body of the municipality will combine the city and county public hearings and otherwise coordinate the subdivision review process and annexation procedures whenever possible.

Chapter 1

General Provisions

These regulations supplement all other regulations, and where they are at variance with other laws, regulations, ordinances, or resolutions, the more restrictive requirements apply. Other regulations include, but are not limited to, zoning regulations, floodplain regulations, building codes, development codes, environmental health regulations, and fire codes.

1-5. RELATIONSHIP OF THIS CODE TO OTHER REGULATIONS

If the requirements of the Ravalli County Subdivision Regulations conflict with any other local, state, or federal rule or regulation, in general the most restrictive requirement of those that impose the highest standard shall control. However, with respect to the road standards adopted in Chapter 5, Table A-1, and referenced in Table B-1, any conflicts or inconsistencies shall be interpreted pursuant to the following hierarchy, with (a) having weight over (b) and (b) over (c), etc.:

- a. Specific provisions of Montana Law, including the Montana Code Annotated and the Administrative Rules of Montana;
- b. The Federal Highway Administration's (FHWA) Manual on Uniform Traffic Control Devices (2003 and updates);
- c. Specific provisions of the Ravalli County Subdivision Regulations;
- d. The American Association of State Highway and Transportation Officials (AASHTO) Guidelines for Geometric Design of Very Low-Volume Local Roads (ADT \leq 400) (2001 and updates);
- e. The AASHTO Policy on Geometric Design of Highways and Streets (2001 and updates);
- f. The Montana Public Works Standard Specifications, 5th Edition (2003 and updates);
- g. The AASHTO Guide for design of pavement structures (1993 and updates).

1-6. AMENDMENT OF REGULATIONS

Before the governing body amends these regulations it will, at a minimum, hold a public hearing on the proposed amendment(s). Notice of the time and place of the public hearing must be published in a newspaper of general circulation in the county not less than fifteen (15) calendar days or more than thirty (30) calendar days before the date of the hearing.

1-7. ADMINISTRATION

1-7-1. Enforcement

Except as provided in 76-3-303, MCA, and these regulations, every final subdivision plat must be filed for record with the County Clerk and Recorder before title to the subdivided land can be sold or transferred in any manner. If unlawful transfers are made, the County Attorney may commence action to enjoin further sales or transfers and compel compliance with all provisions of the MSPA and these regulations. The cost of this action may be imposed against the party not prevailing.

Chapter 1

General Provisions

1-7-2. Violation and Penalties

Any person, firm, corporation, or other entity who violates any of the provisions of the MSPA or these regulations is guilty of a misdemeanor punishable by a fine of not less than \$100 nor more than \$500 or by imprisonment in jail for not more than three months or by both fine and imprisonment. Each sale, lease, transfer, or offer of sale, lease, or transfer of each separate parcel of land in violation of any provision of the MSPA or these regulations shall be deemed a separate and distinct offense. Also refer to Sections 1-7-1 and 3-1-2.

1-7-3. Appeals

Refer to 76-3-625, MCA for the appeals procedure. (Copies are available at the Planning Department.)

1-8. SEVERABILITY

If a court of competent jurisdiction holds any word, phrase, clause, sentence, paragraph, section, or other part of these regulations invalid, that judgment will affect only the part held invalid.

Chapter 2

Interpretation, Construction and Definitions

CHAPTER 2. INTERPRETATION, CONSTRUCTION AND DEFINITIONS

2-1. GENERAL INTERPRETATION

Whenever the words or phrases below appear in these regulations, they shall have the meaning assigned to them by this section. When not inconsistent with the context, words used in the present tense include the future; the singular, unless otherwise specifically defined in a particular section, includes the plural, and the plural the singular; the words "shall" and "must" are always mandatory, and the word "may" indicates use of discretion in making decisions. The term "may not" is prohibitive.

2-2. RESPONSIBILITY FOR INTERPRETATION

- a. In the event that any question arises concerning any provision or the application of any provision of these regulations, the Planning Director, in consultation with the County Attorney's Office as may be necessary, shall be responsible for such interpretation and shall look to the overall intent of these regulations for guidance. The Planning Director shall provide such interpretation in writing to the applicant upon request and keep a permanent record of said interpretations.
- b. The responsibility for interpretation shall not be construed as overriding the responsibilities given to any commission, board, or official named in other parts of these regulations.

2-3. INTERNAL CONFLICTS

A more specific provision of these regulations shall be followed in lieu of a more general provision that may be more lenient than or in conflict with the more specific provision.

2-4. DELEGATION OF AUTHORITY

Whenever a provision in these regulations requires an elected official, department supervisor, or some other employee to do some act or perform some duty, it is to be construed to authorize that individual to designate, delegate, and authorize professional-level subordinates to perform the required act or duty unless the terms of the provision or section specify otherwise.

2-5. COMPUTATION OF TIME

When a time period is specified in these regulations, the first day shall be the day after the event that triggers the time clock to start. For example, if an action is to be taken within 35-working days of the date of submittal, the time clock starts the first business day after the date of the submittal.

2-6. DEFINITIONS

A

1. **ABUT (ADJOIN):** To physically touch or border upon; or to share a common property line.
2. **ACCESS, LEGAL:** Each lot in a subdivision abuts a public (city, county, state, or federal) street or road, or that the subdivider has obtained adequate and appropriate easements across all necessary properties from a public road to each lot in the subdivision.

Chapter 2

Interpretation, Construction and Definitions

3. **ACCESS, PHYSICAL:** A road conforming to the design and development standards, along with any relevant variance requests, in the Ravalli County Subdivision Regulations that provides unobstructed vehicular access year-round to each lot in the subdivision. The requirement to provide evidence of physical access with a subdivision application shall take into account the current condition of the road and along with any proposed improvements that will be made prior to final plat approval (or final approval after execution of a subdivision improvements agreement) or requirements for variances to meet the physical access requirements.
4. **ADJOIN:** See ABUT.
5. **ADJOINING LANDOWNER (ADJACENT PROPERTY OWNER):** The owner-of-record of a parcel of land that is contiguous, at any point, or land that is separated from the subject parcel only by a road, watercourse or deeded right-of-way.
6. **AFFECTED AGENCY:** Any agency identified by the subdivider, Planning Department, Planning Board and/or BCC as having a potential interest in a proposed subdivision. An initial list of affected agencies shall be identified by the Planning Department during the pre-application meeting. (Refer to Section 3-1-4(c)(ii).) For those affected agencies identified after the pre-application conference, the subdivider shall be notified in accordance with Sections 3-2-3(b) and 3-3-3(b).
7. **AGGRIEVED PERSON:** Any person who can demonstrate a specific personal and legal interest, as distinguished from a general interest, that has been or is likely to be specifically and injuriously affected by a decision. [See 76-3-625(4), MCA.]
8. **AGRICULTURE:** All aspects of farming or ranching including the cultivation or tilling of soil; dairying; the production, cultivation, growing, or harvesting of agricultural or horticultural commodities; raising of livestock, bees, fur-bearing animals or poultry; and any practices including forestry or lumbering operations, preparation for market or delivery to storage, to market, or to carriers for transportation to market. [See 41-2-103(1), MCA.]
9. **AGRICULTURAL COVENANT:** A restriction filed with a division of land created for agricultural use only.
10. **AGRICULTURAL WATER USER FACILITIES:** Those facilities that provide water for irrigation or stock watering to agricultural lands for the production of agricultural products. These facilities include, but are not limited to, ditches, head gates, pipes, and other water conveying facilities.
11. **AIR POLLUTION:** The presence of air pollutants in a quantity and for a duration that are or tend to be injurious to human health or welfare, animal or plant life, or property or that would unreasonably interfere with the enjoyment of life, property, or the conduct of business.
12. **ANNEXATION:** The process of adding land to the jurisdictional area of another governmental subdivision. [For annexation to a city or town, refer to Title 7, Chapter 2, MCA.]
13. **APPEAL:** A process to review (1) a decision or determination, or (2) a failure to act as required.

Chapter 2

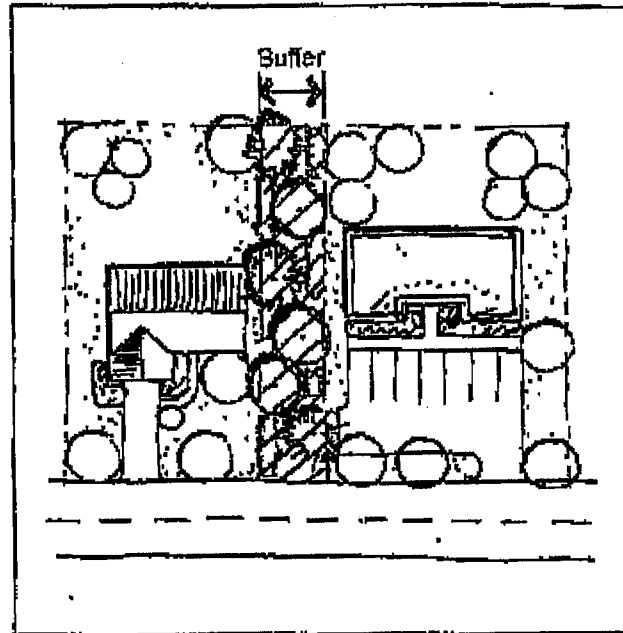
Interpretation, Construction and Definitions

14. ARM: Administrative Rules of Montana.
15. AVALANCHE: A movement of a large mass of snow and other debris moving downslope under gravitational forces. (See also GEOLOGICAL HAZARD, HAZARD and LANDSLIDE.)
16. AVERAGE DAILY TRAFFIC (ADT): The average number of vehicles crossing a specific point on a roadway during a 24-hour period. The projected or estimated ADT for a subdivision shall be based on the manual entitled "Trip Generation" (latest edition) published by the Institute of Transportation Engineers.

B

17. BASE FLOOD: See FLOOD, 100-YEAR.
18. BASE FLOOD ELEVATION (BFE): See FLOOD ELEVATION, 100-YEAR.
19. BLOCK: A group of lots, tracts, or parcels within well-defined and fixed boundaries.
20. BOARD OF COUNTY COMMISSIONERS (BCC): The Ravalli County Board of County Commissioners.
21. BUFFER AREA: A landscaped area intended to separate and partially obstruct the view between uses, serve as an attractive boundary, or both. (See Figure 2-5-1.) (See also SCREENING.)
22. BUILDING: A structure having a roof supported by walls or columns, or other supports intended for the shelter or enclosure of persons, animals, or property of any kind. (See also STRUCTURE.)
23. BURDEN OF PROOF: The obligation of a party to show by evidence that an assertion is true.

**Figure 2-5-1
Buffer Area**



C

24. CAMPGROUND SPACE: A designated portion of a campground designed for the placement of one (1) recreational vehicle, tent, camper trailer, or similar accommodation and one (1) automobile for the exclusive use of its occupants.
25. CERTIFICATE OF SURVEY: A drawing of a field survey prepared by a professional land surveyor for the purpose of disclosing facts pertaining to boundary locations.
26. CITY OF THE FIRST CLASS: A municipality with a population of 10,000 or more.
27. CITY OF THE SECOND CLASS: A municipality with a population of less than 10,000 and more than 5,000.
28. CITY OF THE THIRD CLASS: A municipality with a population of less than 5,000 and more than 1,000.
29. COMMERCIAL CAMPGROUND: A place and/or buildings or portions thereof, that is used or is intended for public camping, where persons can camp, secure tents or cabins, or park trailers, camping trailers, pickup campers, automobiles, and recreational vehicles for camping and sleeping purposes. The term includes accessory buildings such as a Laundromat and retail sales for the convenience of campground guests.

Chapter 2

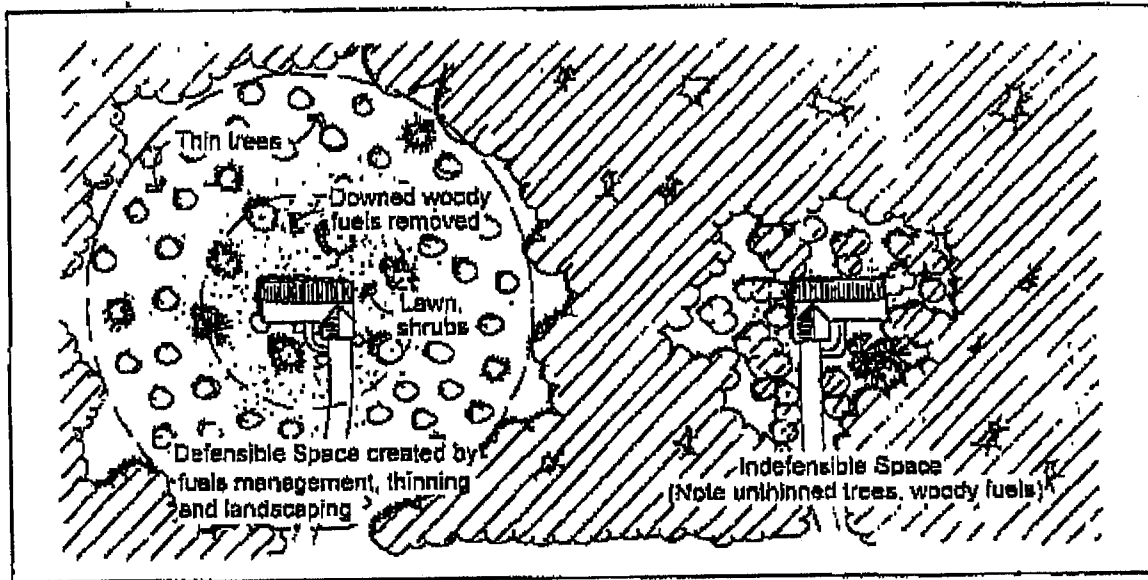
Interpretation, Construction and Definitions

30. COMMON DEVELOPMENT PLAN: A plan submitted by two (2) or more adjoining landowners working together to develop subdivision proposals for concurrent review for the specific benefit of said properties and owners.
31. CONDOMINIUM: A form of individual ownership with unrestricted right of disposal of one or more units in a multiple unit project, with the land and other parts of the project held in common ownership or use with owners of the other units, pursuant to Title 70, Chapter 23, MCA.
32. CONSERVATION EASEMENT: An easement or restriction running with the land and assignable, whereby an owner of land voluntarily relinquishes to the holder of such easement or restriction any or all rights to construct improvements upon the land or to substantially alter the natural character of the land or to permit the construction of improvements upon the land or the substantial alteration of the natural character of the land, except as this right is expressly reserved in the instruments evidencing the easement or restriction. [See 76-6-104, MCA.]
33. COVENANT (RESTRICTIVE COVENANT): A limitation contained in a deed or other document that restricts or regulates the use of the real property.

D

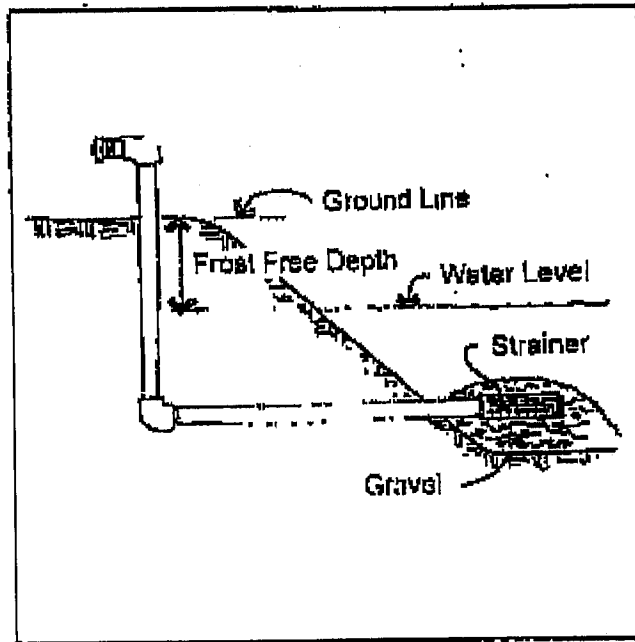
34. DEDICATION: The deliberate appropriation of land by an owner for any general and public use, reserving to the landowner no rights that are incompatible with the full exercise and enjoyment of the public use to which the property has been devoted. [76-3-103(3), MCA]
35. DEFENSIBLE SPACE: An area around buildings and structures where measures are taken to reduce the chance of a fire spreading to or from the building or structure. Typical measures include landscaping, tree thinning, and fuels management. (See Figure 2-5-2.) (See also BUILDING and STRUCTURE.)
36. DEQ: The Montana Department of Environmental Quality.
37. DEVELOPMENT IMPROVEMENT: Any structure or facility constructed to serve the residents of a subdivision or project, which may include the general public, such as parks, streets and roads, sidewalks, curbs and gutters, street lighting, utilities and systems for water supply, wastewater (sewage) treatment, and disposal and storm water drainage.

Figure 2-5-2
Defensible Space



38. **DIVISION OF LAND:** The segregation of one or more parcels of land from a larger tract held in single or undivided ownership by transferring or contracting to transfer title to or possession of a portion of the tract or properly filing a certificate of survey or subdivision plat establishing the identity of the segregated parcels pursuant to the MSPA. The conveyance of a tract of record or an entire parcel of land that was created by a previous division of land is not a division of land. [76-3-103(4), MCA]
39. **DRAINAGE DETENTION STRUCTURE:** A structure designed to collect and temporarily store storm water with subsequent gradual release of storm water. (See also **STORM WATER** and in contrast, **DRAINAGE RETENTION STRUCTURE**.)
40. **DRAINAGE RETENTION STRUCTURE:** A structure designed to collect and prevent the release of a given volume of storm water by complete on-site storage. (See also **STORM WATER** and in contrast, **DRAINAGE DETENTION STRUCTURE**.)
41. **DRIVEWAY:** An accessway that provides legal and physical access to only one parcel. (See also **ROAD**.)
42. **DRY HYDRANT:** A pipe that leads to a water source, but has no pressure of its own. (Note: Fire fighters attach fire hoses to dry hydrants and draft water from the water source.) (See Figure 2-5-3.)

Figure 2-5-3
Dry Hydrant



E

43. EASEMENT: Authorization by a property owner for another to use, or restriction on the right of the owner to use, all or a portion of the owner's property for a specified purpose. (See also CONSERVATION EASEMENT.)

Private road and utility easement: An easement shown on a plat or described in a recorded document in which private roads are located and public utility companies may place utility service for customers. (See also PRIVATE ROAD.)

Public road and utility easement: An easement shown on a plat or described in a recorded document in which public roads are located and where public utility companies may place utility service for customers. (See also PUBLIC ROAD.)

44. ENGINEER, PROFESSIONAL: A person licensed in conformance with Title 37, Chapter 67, MCA to practice engineering in the State of Montana. [See 37-67-301, MCA.]
45. ENGINEERING PLANS, PRELIMINARY: Plans prepared under the supervision of a Professional Engineer for proposed elements such as community water systems, community sewer systems, etc. Plans shall be of sufficient detail to depict required land dedication and rights-of-way. Plans shall be sufficient to show that all parcels can be served by the system proposed and shall be certified by the Professional Engineer to that effect. Plans shall show a preliminary layout of infrastructure. (See also ENGINEER, PROFESSIONAL.)

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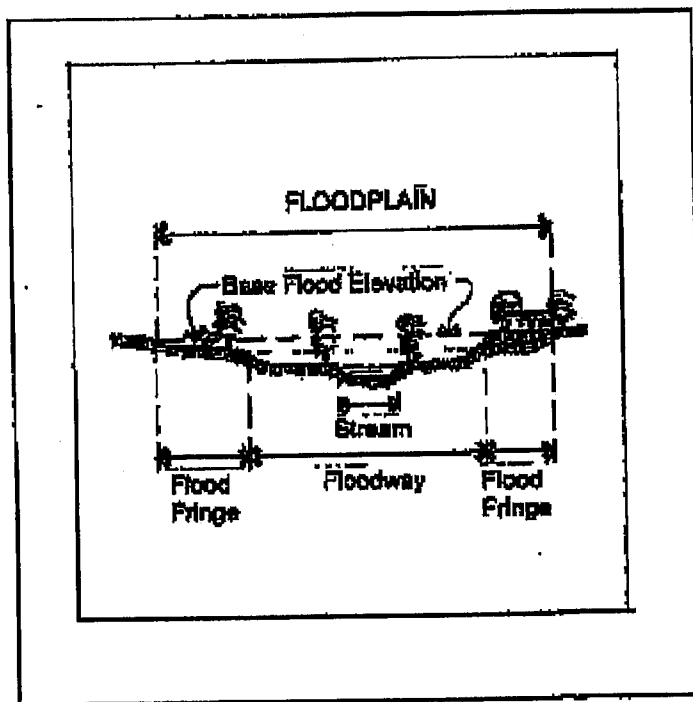
Interpretation, Construction and Definitions

46. ENVIRONMENTAL ASSESSMENT: A written report that documents the environmental, social, and cultural impacts and consequences of a proposed development project.

F

47. FINDING: A written fact or determination based on evidence made in support of a decision.
48. FLOOD, 100-YEAR: A flood magnitude that has a one (1) percent chance of being equaled or exceeded in any given year, commonly referred to as a base flood. (See Figure 2-5-4.)
49. FLOOD ELEVATION, 100-YEAR: The vertical elevation above sea level in relation to North American Vertical Datum 1988, to which the waters of a 100-year flood are expected to rise. The base flood elevation is the same as the 100-year flood elevation. (See Figure 2-5-4.)
50. FLOOD or FLOODING: The water of any watercourse or drainage that is above the bank or outside the channel banks of such a watercourse or drainage, or the unusual and rapid accumulation or runoff of surface waters from any source.
51. FLOODPLAIN: Any area of land susceptible to being inundated by water from any source.
52. FLOODPLAIN, 100-YEAR: The area of land that would be inundated by water of a 100-year flood. The 100-year floodplain consists of a floodway and a flood fringe. (See also FLOOD, 100-YEAR; FLOODWAY AND FLOOD FRINGE.) (See Figure 2-5-4.)
53. FLOODWAY: The channel of a watercourse or drainage and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. (See Figure 2-5-4.)
54. FLOOD FRINGE: The portion of the floodplain located outside the limits of the floodway. (See Figure 2-5-4.)

Figure 2-5-4
Floodplain Components



G

- 55. **GEOLOGICAL HAZARD:** The potential for geological instability arising from geologic features or conditions, including faults, landslides, avalanches, stream channel movement, fluvial erosion, and the like. (See also HAZARD.)
- 56. **GOVERNING BODY:** The governing authority of a county, city, town, or consolidated local government organized pursuant to law [76-3-103 (7), MCA]. The governing body for Ravalli County is the Board of County Commissioners.
- 57. **GROWTH POLICY:** A policy that was adopted pursuant to Title 76, Chapter 1, MCA, on or after October 1, 1999. In these regulations, the Growth Policy refers to the Ravalli County Growth Policy.

H

- 58. **HAZARD:** Any condition, either natural or man-made, that presents a danger to the public health, safety, and general welfare. (See also GEOLOGIC HAZARD.)
- 59. **HOMEOWNERS' ASSOCIATION (PROPERTY OWNERS' ASSOCIATION and LANDOWNERS' ASSOCIATION):** A private, nonprofit corporation of homeowners

Chapter 2

Interpretation, Construction and Definitions

established according to State law for the purpose of owning, operating, or maintaining various common properties.

I

- 60. IMMEDIATE FAMILY: A spouse, child(ren) by blood or adoption, and parents. [76-3-103(8), MCA]
- 61. IMPROVEMENT AGREEMENT: A contractual agreement that may be required by the governing body to ensure the construction of such improvements as required by local subdivision regulations. The improvement agreement may require collateral to secure the construction of such improvements, such as the deposit of certified funds, irrevocable letters of credit, performance or property bonds, private or public escrow agreements, or similar financial guarantees.
- 62. IRRIGATION DISTRICT: A district established pursuant to Title 85, Chapter 7, MCA.
- 63. IRRIGATION DITCH: A man-made structure designed to convey water for irrigation purposes.

L

- 64. LAND USE: As the context would indicate, "land use" means (1) the development that has occurred on the land, (2) development that is proposed on the land, or (3) the use that is permitted on the land under an adopted and legally enforceable regulatory framework.
- 65. LANDOWNER (PROPERTY OWNER): All individuals, groups, or parties with a title interest in the property. For purposes of 76-3-207, MCA, when a parcel of land for which an exemption from subdivision review is claimed is being conveyed under a contract-for-deed, the terms "property owner," "landowner," and "owner" mean the seller of the parcel under the contract-for-deed (24.183.1104 ARM). For all other purposes of these regulations, the terms "property owner," "landowner," and "owner" mean both the seller and the purchaser under a contract for deed.
- 66. LANDSLIDE: A movement of a large mass of soil and/or rock moving downslope under gravitational forces. (See also AVALANCHE, GEOLOGICAL HAZARD and HAZARD.)
- 67. LEGAL ACCESS: See ACCESS, LEGAL.
- 68. LOCAL SERVICES: Public services or facilities that local government is authorized to provide, including but not limited to water supply and sewage treatment facilities, law enforcement, fire protection, emergency services, public health services, educational services and transportation systems.
- 69. LOT: A parcel, plot, or other land area created by subdivision, including by subdivision for sale, rent, or lease. For the purposes of defining major/minor subdivisions, calculating pro rata share, etc. this term shall also include units within a subdivision. (See also UNIT.)

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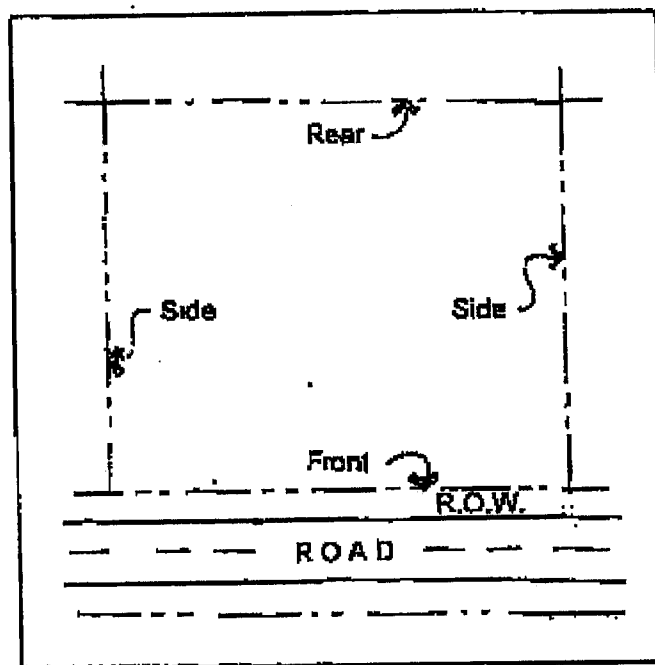
70. **LOT LINE:** A line dividing one lot from another lot or from a street or alley. (See Figure 2-5-5.) (See also LOT.)

Front lot line: A lot line described for each of the following types of lots: on an interior lot, the lot line abutting a street; or, on a corner lot, the shorter lot line abutting a street; or, on a through lot, the lot line abutting the street providing the primary access to the lot; or on a flag lot, the interior lot line most parallel to and nearest the street from which access is obtained.

Rear lot line: A lot line that does not intersect a front lot line that is most distant from and most closely parallel to the front lot line.

Side lot line: A lot line not a front or rear lot line.

**Figure 2-5-5
Lot Lines**



71. **LOT MEASUREMENT:**

Lot Depth: The average horizontal distance between the front and rear lot lines.

Lot Width: The average horizontal distance between the side lot lines.

Lot Frontage: The length of the lot or parcel along the street on which it borders.

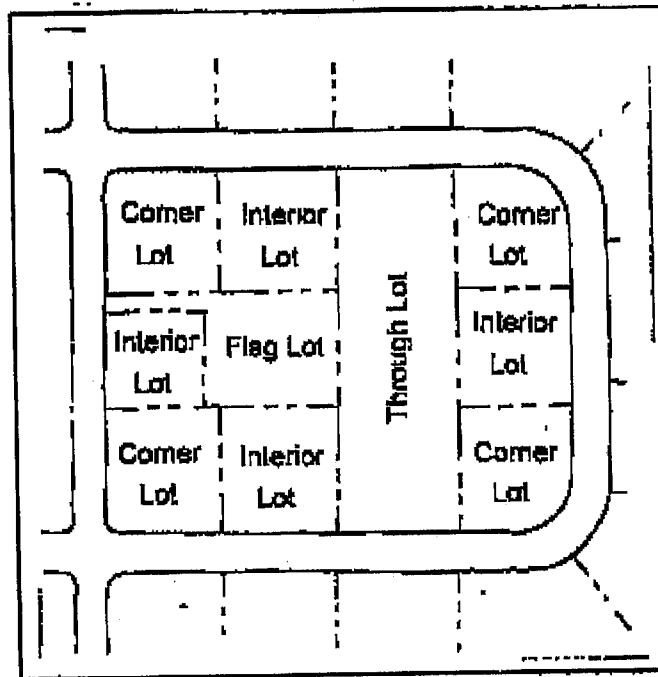
Lot Area, Gross: The total area of a lot inclusive of all easements.

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Lot Area, Net: The area of a lot determined exclusive of street, highway, alley, road, or other rights-of-way or access easements.

Figure 2-5-6
Lot Types



72. LOT TYPES (See Figure 2-5-6.):

Corner Lot: A lot located at the intersection of two streets. A lot abutting on a curved street or streets shall be considered a corner lot if straight lines drawn from the foremost point of the lot meet at an interior angle of less than 135 degrees.

Flag Lot: A lot with access provided by a relatively narrow corridor from the road to the bulk of the lot.

Interior Lot: A lot that abuts one (1) road.

Through or Double-Frontage Lot: A lot whose front and rear lines both abut on streets.

M

73. MDT: Montana Department of Transportation.

74. MITIGATE: To make the impacts of a subdivision less severe.

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75. **MOBILE (MANUFACTURED) HOME:** A detached residential dwelling unit, which may consist of two or more sections, fabricated at a factory and designed to be towed on its own chassis to a building site for occupation as a dwelling with or without a permanent foundation. The term includes, but is not limited to, "trailer homes," "house trailers," and "manufactured homes" whether or not the unit has been constructed after July 1, 1976, in conformance with Federal Manufactured Home Construction and Safety Standards. The term does not include "modular" or "factory-built buildings" that are fabricated at a factory in accordance with the Uniform Building Code Standards applicable to site-built homes, and are transported to the site for final assembly on a permanent foundation.
76. **MOBILE (MANUFACTURED) HOME LOT/SPACE:** A designated portion of a mobile home park designed for the accommodation of one mobile home and its accessory buildings or structures for the exclusive use of the occupants. (See also **MOBILE HOME**.)
77. **MOBILE (MANUFACTURED) HOME PAD:** That area of a mobile home lot/space which has been prepared for the placement of a mobile home.
78. **MOBILE HOME PARK:** A tract of land providing two (2) or more mobile home lots/spaces that could be for lease or rent to the general public. (See also **MOBILE HOME** and **MOBILE HOME LOT**.)
79. **MONTANA DEPARTMENT OF ENVIRONMENTAL QUALITY MINIMUM STANDARDS:** Minimum standards promulgated by the Montana Department of Environmental Quality, pursuant to Title 76, Chapter 4, Part 1, MCA.
80. **MONUMENT (PERMANENT MONUMENT):** Any structure of masonry, metal, or other permanent, durable material placed in the ground, which is exclusively identifiable as a monument to a survey point, expressly placed for surveying reference.
81. **MSPA:** Montana Subdivision and Platting Act, Title 76, Chapter 3, MCA.

N

82. **NATURAL ENVIRONMENT:** The physical conditions that exist within a given area, including land, air, water, mineral, flora, fauna, sound, light, and objects of historic and aesthetic significance.
83. **NO-BUILD ZONE:** An area in which no building or structure may be constructed or otherwise placed. Roads, trails, and utility crossings may be permissible within a no-build zone. (See also **BUILDING** and **STRUCTURE**.)
84. **NO-BUILD/ALTERATION ZONE:** An area in which no building or structure may be constructed or otherwise placed and no road or utility crossing is permitted and the vegetation is retained in its natural condition, with the exception of necessary weed control and the removal of vegetation and thinning of trees as may be necessary to protect against wildfire and promote a healthy ecosystem. No fill is permitted to be placed within the no-build/alteration zone. Fences are permitted within a no-build/alteration zone. Certain specific development alterations may be

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permissible within the no-build/alteration zone as provided for in these regulations. (See also BUILDING and STRUCTURE.)

85. NO-INGRESS/EGRESS ZONE: An area across which permanent vehicular access is prohibited.
86. NOXIOUS WEED: Any exotic plant species established or that may be introduced in the State that may render land unfit for agriculture, forestry, livestock, wildlife, or other beneficial uses, or that may harm native plant communities and that is designated by administrative rule of the Montana Department of Agriculture or by a weed management district. [See 7-22-2101, MCA.]

O

87. OVERALL DEVELOPMENT PLAN: The plan showing future development potential of areas not included in a development proposal.
88. OWNER(S) OF RECORD: The individual(s) who are listed as the legal owner(s) of a tract of record.

P

89. PARCEL: A unit of land all parts of which are contiguous, including contiguous lots, in the possession of, owned by, or managed by the same person. (See also PERSON.)
90. PARK: An area specifically set aside for outdoor recreation, conservation of natural environment, wildlife habitat, etc.
91. PARK BOARD: The Ravalli County Park Board created pursuant to 7-16-2301, MCA.
92. PARK DEDICATION: Land set aside by the subdivider for park purposes. (See also PARK DEDICATION, CASH-IN-LIEU.)
93. PARK DEDICATION, CASH IN LIEU: A cash payment that is equal to the assessed value of the land that would have been dedicated for park purposes. (See also PARK DEDICATION.)
94. PERSON: Any individual, corporation, governmental agency, business trust, estate, trust, partnership, association, two or more persons having a joint or common interest, or any other legal entity.
95. PHYSICAL ACCESS: See ACCESS, PHYSICAL.
96. PLANNING BOARD: A planning board formed pursuant to Title 76, Chapter 1, MCA.
97. PLANNING DEPARTMENT: The Ravalli County Planning Department.
98. PLANNING DIRECTOR: The Ravalli County Planning Director.
99. PLANNING STAFF: The individuals employed by the Planning Department.

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100. PLAT: A graphical representation of a subdivision showing the division of land into lots, parcels, blocks, streets, alleys, other divisions and dedications, and any other information as may be required.

Amended Plat: The final drawing of any change to a filed platted subdivision, or any lots within a filed platted subdivision.

Concept plat: A legible drawing showing approximate boundaries, dimensions, areas, distances and other pertinent information of a proposed subdivision, all as more particularly set forth in Section 3-1-4.

Final Plat: The final drawing of the subdivision and dedication required to be prepared for filing for record with the County Clerk and Recorder containing all elements and requirements set forth in these regulations and the MSPA. [Title 76, Chapter 3, MCA]

Preliminary Plat: A clear, scaled drawing of a proposed subdivision showing the layout of streets, alleys, lots, blocks, and other elements of a subdivision that furnish a basis for review by a governing body as more specifically set forth in these regulations and the MSPA.

Vacated Plat: A plat which has been voided under the provisions of 76-3-305, 7-5-2501, 7-5-2502, 7-14-2616 (1) and/or (2), 7-14-2617, 7-14-4114 (1) and/or (2), and 7-14-4115, MCA.

101. PLATTED SUBDIVISION: Parcels created by platting both prior to and following July 1, 1973.
102. PRIVATE IMPROVEMENT: Private improvements are the same types of improvements as defined under PUBLIC IMPROVEMENTS, except the structure or facility has not been dedicated to the public or otherwise acquired by a government entity for public use.
103. PRO-RATA SHARE: The projected average daily traffic (ADT) of the proposed subdivision divided by the projected ADT of the proposed subdivision plus the existing ADT times the cost to bring the county road up to standard:

$$\frac{\text{ADT (proposed subdivision)}}{\text{ADT (proposed subdivision) + existing ADT}} \times \text{Cost to bring road up to standard}$$

ADT (proposed subdivision) is the estimated traffic that will be generated by the proposed subdivision based on the number of lots, minus one lot, and the proposed usage. The estimated traffic shall be determined to be zero trips for any additional existing residences/businesses on the property that have been in place since the enactment of the MSPA and as can be documented by the subdivider through tax records, wastewater treatment system permits, and any other credible evidence.

Existing ADT is the current traffic measured on the road segment in question.

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Cost to bring road up to standard (Cost Estimate(s)), as assessed by the RCBRD, including engineering costs (planning, design, survey, inspection), construction costs, administration costs, right-of-way acquisition, if required, and moving of utilities and structures, if required.

(ADT and Cost Estimate(s), as approved by the RCBRD, shall be completed by the RCBRD or a qualified professional engineer.)

104. **PUBLIC HEALTH AND SAFETY:** The prevailing healthful, sanitary condition of well-being for the community at large. Conditions that relate to public health and safety include but are not limited to: disease control and prevention; emergency services; environmental health; flooding, fire or wildfire hazards; rock falls or landslides; unstable soils, steep slopes, and other natural hazards; high voltage lines or high pressure gas lines; and air or vehicular traffic safety hazards.
105. **PUBLIC IMPROVEMENT:** Any structure or facility constructed to serve more than one lot in a subdivision that is dedicated to the public or otherwise acquired by a government entity for public use. Examples of typical public improvements include parks, streets or roads, sidewalks, curbs, gutters, street lighting, utilities, systems for water supply, wastewater (sewage) treatment and disposal, drainage, or fire protection.

R

106. **RCEH:** The Ravalli County Environmental Health Department.
107. **RCBRD:** The Ravalli County Road and Bridge Department.
108. **RECREATIONAL CAMPING VEHICLE:** A vehicle primarily designed as temporary living quarters for recreational, camping, or travel use that either has its own motor power or is mounted on or drawn by another vehicle.
109. **RECREATIONAL CAMPING VEHICLE PARK:** A tract of land used for public camping where persons can rent a space to park or place camping trailers, pick-up campers, motor homes, travel trailers, or tents for dwelling purposes. (See also **RECREATIONAL CAMPING VEHICLE SPACE**.)
110. **RECREATIONAL CAMPING VEHICLE SPACE:** A designated portion of a recreational vehicle park that is designed for the exclusive use of its occupants. (See also **RECREATIONAL CAMPING VEHICLE PARK**.)
111. **REMAINDER:** That portion of an original tract that is not itself intended for transfer, but that is left after other parcels are segregated for transfer. A "remainder" is considered a lot in a subdivision and will not evade review as a "remainder." If an exemption by a certificate of survey is used, the remaining tract of land is a separate parcel that must be surveyed.
112. **RESTRICTIVE COVENANT:** See **COVENANT**.
113. **REVIEWING AUTHORITY:** The DEQ or RCEH, as authorized under Title 76, Chapter 4, MCA.

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114. **RIGHT-OF-WAY:** A linear public way established or dedicated for public purposes by a duly recorded plat, deed, easement, grant, prescription, condemnation, governmental authority, or by operation of law, intended to be occupied by a street, non-motorized vehicle path, railroad, electric transmission lines, water line, sanitary sewer line, storm sewer line, irrigation canal, or other similar uses.
115. **ROAD:** An accessway, located within an easement or right-of-way that provides legal and physical access to more than one parcel. (See also **EASEMENT** and **RIGHT-OF-WAY** and in contrast, see **DRIVEWAY**.)
116. **ROAD, COUNTY:** A road that has been legally adopted as a county road in accordance with the laws applicable at the time of its adoption.
117. **ROAD, COUNTY-MAINTAINED:** A road within Ravalli County that is maintained by the County. Identified County-maintained roads are listed in Exhibit A of the Ravalli County Subdivision Regulations.
118. **ROAD, HARD-SURFACED:** A road that is covered with either an asphalt or chip-sealed surface.
119. **ROAD, PAVED:** A road that is paved with asphalt-concrete.
120. **ROAD TYPES:** See Section 5-4-3 for classification of arterials, collectors and local roads. For purposes of these regulations, road types are defined as follows (See Figure 2-5-7.):

Alley Access: A special type of accessway that provides a secondary means of access to the rear of the lots. A narrower easement width is typically permissible for an alley, as compared to other roads.

Cul-de-sac road: A road having only one outlet for vehicular traffic and terminating in a vehicle turnaround area.

Frontage Road: A local or collector road, usually parallel and adjacent to an arterial or major collector, that provides access to abutting properties and controls traffic access to arterials or collectors.

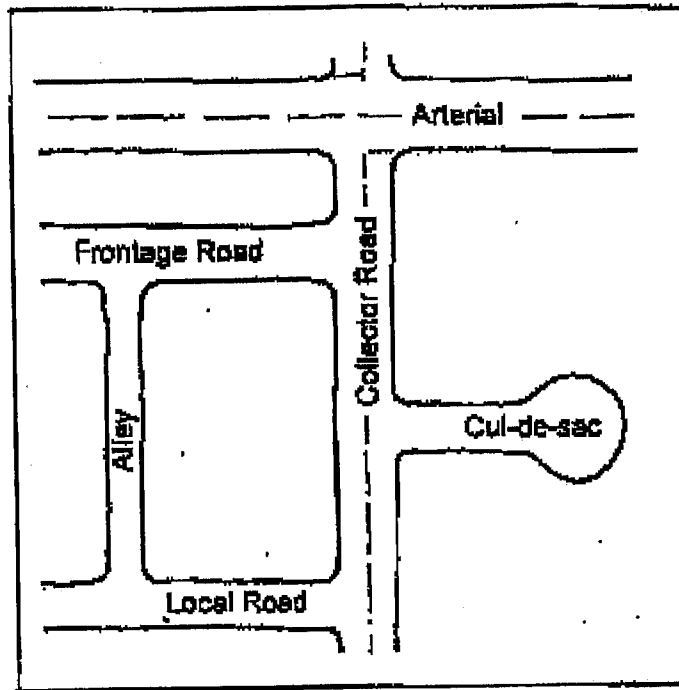
Half-Road: A portion of the width of a road, usually located along the perimeter of a subdivision, the remaining portion of which street must be located on adjacent property if the road is to be fully constructed.

Loop Road: A local street which begins and ends on the same street, generally used for access to properties.

Private Road: A road that is maintained by a private entity(s) at its expense and that the general public may use. (In contrast see **PUBLIC ROAD**.)

Public Road: A road that is maintained by the county, state, or other public entity and that the general public may use. (In contrast see **PRIVATE ROAD**.)

Figure 2-5-7.
Road Types



- 121. ROAD INTERSECTION: An at-grade connection of a road or driveway with another road.
- 122. ROAD MAINTENANCE AGREEMENT: A written instrument recorded with the County Clerk and Recorder that defines how a private road will be maintained in perpetuity, or until such time as the County or the State accepts it as a public road, and the rights and obligations of the parties to the agreement.
- 123. RURAL (SPECIAL) IMPROVEMENT DISTRICT: An established area in the unincorporated area of the county that is created by the BCC pursuant to Title 7, Chapter 12, Part 21, MCA for the express purpose of levying a special tax to pay for public improvements/maintenance for the benefit of those within the district.

S

- 124. SCREENING: A feature, such as a wall, fence, hedge, berm, or similar feature, used to shield or obscure elements of a development from adjacent sites. (See also BUFFER AREA.)
- 125. SETBACK: A specified horizontal distance between two actual or imaginary objects, such as property lines, ordinary high water mark, buildings, wells, septic tanks, etc.

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126. SITE PLAN: A plan, drawn to scale, showing topography, the layout of existing and proposed property lines, easements, structures, uses, utilities, parking areas, streets, signs, buffers, landscaping, adjacent land uses, and other information as required.
127. SLOPE: The change in vertical measurement to the change in the horizontal measurement, usually expressed as a percentage.
128. SPECIES AND COMMUNITIES OF SPECIAL CONCERN: Plant species, animal species, and plant communities, as identified by the Montana Natural Heritage Program, that are rare, endemic, disjunct, threatened, or endangered throughout their range or in Montana, vulnerable to extirpation from Montana, or in need of further research.
129. STATE: The State of Montana.
130. STORM WATER: The flow and accumulation of water from a rainfall event.
131. STREAM: A natural body of running water flowing continuously or intermittently in a channel on or below the surface of the ground.
132. STREET: See ROAD.
133. STRUCTURALLY CONNECTED: A structural connection requires a common foundation, common roof line, and common wall element. A structurally connected foundation would mean that the proposed foundation directly abuts and joins that of the original foundation using the same or similar foundation materials and construction techniques. A common roof line means that the proposed roof structure blends with that of the original and provides all-weather protection for the space beneath. A common wall element means an enclosed space directly attaching the proposed structure with the existing. Breezeways, openings, or other thoroughfares in the wall element that cannot be closed to provide all-weather protection for the space inside are not considered structural connections under this term. Operable windows are allowed. The finished addition should be constructed such that it allows for the comfortable passage of individuals to the original structure. It should appear to have been contemplated for construction with the original structure.
134. STRUCTURE: Any permanent or temporary object that is constructed, installed, or placed by man, which requires a location on a parcel of land. It includes buildings of all types, bridges, instream structures, storage tanks, walls, fences, swimming pools, towers, antennas, poles, pipelines, transmission lines, smokestacks, signs, and similar objects.
135. SUBDIVIDER: Any person, firm, corporation, or other entity that causes land to be subdivided or that proposes a subdivision of land [76-3-103(15), MCA]. When used in these regulations, the term "subdivider" may also include the property purchaser on a contract for deed or its agent, or the landowner's agent, if the landowner has provided the Planning Department written notification that the landowner's agent is authorized to act on the landowner's behalf and to receive notices regarding local government decisions concerning the subdivision.

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136. **SUBDIVISION:** A division of land or land so divided which creates one or more parcels containing less than 160 acres that cannot be described as a one-quarter aliquot part of a United States government section, exclusive of public roadways, in order that the title to or possession of the parcels may be sold, rented, leased, or otherwise conveyed and includes any re-subdivision and further includes a condominium or area, regardless of its size, that provides or will provide multiple space for recreational camping vehicles or mobile homes [76-3-103(14), MCA].

First minor subdivision: A proposed minor subdivision from a tract of record that has not been subdivided or created by a subdivision under the MSPA, or has not resulted from a tract of record that has had more than five parcels created from that tract of record under 76-3-201 or 76-3-207, MCA, since July 1, 1973. [76-3-609(2), MCA]

Major subdivision: A subdivision containing six (6) or more lots/units.

Minor subdivision: A subdivision containing five (5) or fewer lots/units.

Subsequent minor subdivision: Any subdivision of five or fewer parcels that is not a first minor subdivision.

137. **SUBDIVISION EVASION CRITERIA:** Those criteria adopted by a local unit of government that it uses to determine when a rebuttable presumption exists that the proposed use of the subdivision exemption, as allowed by state law, is being used to evade subdivision regulations.
138. **SURVEYOR (PROFESSIONAL LAND SURVEYOR):** A person licensed in conformance with the Montana Engineers' and Land Surveyors' Act [Title 37, Chapter 67, MCA] to practice surveying in the State of Montana.
139. **SURVEYOR (EXAMINING LAND SURVEYOR):** A professional land surveyor duly appointed by the governing body to review surveys and plats submitted for filing.
140. **SWALE:** A drainage channel or depression designed to direct surface water flow.

T

141. **TITLE REPORT (ABSTRACT OF TITLE, SUBDIVISION GUARANTEE, OR PLATTING REPORT):** A report from a title service company on the condition of title to the property proposed for subdivision, which identifies the owners of record of the property, lien holders, encumbrances, easements and restrictions of record, and all other conditions of title of public record, and accompanied by a guaranty of the accuracy of the report from the title insurance agent or its underwriter.
142. **TOPOGRAPHY:** General term to include characteristics of the ground surface such as plains, hills, mountains, slopes, and other physiographic features.
143. **TOWNHOUSE LOT:** Arrangement under which units share a common wall, and individuals own their own units and hold separate title to the land beneath the unit.

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144. TRACT OF RECORD: An individual parcel of land, irrespective of ownership, that can be identified by legal description, independent of any other parcel of land, using documents on file in the records of the County Clerk and Recorder's Office. [76-3-103(16)(a), MCA]
145. TRAFFIC IMPACT ANALYSIS: A written report that documents the traffic impacts and consequences of a proposed development project. Typical components would address each of the following: existing conditions, on-site traffic circulation, impacts on public roads, and recommendations/alternatives to alleviate identified impacts. (See also ENVIRONMENTAL ASSESSMENT.)

U

146. UNIT: A building, structure, or other space intended for occupancy or commercial use other than storage that may be sold, rented, leased, or otherwise conveyed to an individual, family, business or other entity, which may or may not be in a single structure or under a single roof. Buildings that are accessory to, and are for the sole use by occupants of the main dwelling, including garages and storage sheds, are not considered "units" for purposes of these regulations. (See also LOT.)

V

147. VARIANCE: A grant of relief from the strict application of a rule or regulation that would permit development in a manner otherwise prohibited.
148. VESTED RIGHT: A right which when it has become absolute and fixed cannot be defeated, contested, or denied by subsequent governmental actions, conditions, or change in regulations.
149. VIOLATION: The failure to comply with applicable regulations.
150. VOLUNTARY ZONING DISTRICT: A zoning district in the unincorporated area of the county that is created by the board of county commissioners following a petition of landowners within the district pursuant to Title 76, Chapter 2, Part 1, MCA, for the express purpose of regulating land uses and densities/intensities within the district.

W

151. WATER RIGHT: A right to use water that is protected under Montana law. [See Title 85, Chapter 2, MCA.]
152. WATERBODY: Man-made and natural water features including rivers, streams, creeks, irrigation ditches, lakes, and ponds. (See also IRRIGATION DITCH.)
153. WILDLAND FIRE HAZARD: Those areas within the wildland/residential interface area that, due to fire history, vegetation type and density, fuel types and loadings, topography, aspect, and other physical characteristics, are more likely than not to experience a wildland fire event. (See also WILDLAND/RESIDENTIAL INTERFACE.)

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154. WILDLAND/RESIDENTIAL INTERFACE: That geographical area where structures and other human development meets or intermingles with wildland or vegetative fuels. (See also WILDLAND FIRE HAZARD.)
155. WILDLIFE: Animals (including mammals, birds, reptiles, and fish) that exist in their natural environment. These exclude domesticated or tamed species.
156. WILDLIFE HABITAT: The place or area where wildlife naturally lives or travels through.

Chapter 3

Subdivision Review Requirements and Procedures

CHAPTER 3. SUBDIVISION REVIEW REQUIREMENTS AND PROCEDURES

3-1. ALL SUBDIVISIONS – PRELIMINARY SUBMITTAL AND REVIEW PROCEDURES

3-1-1. Construction Timing

Alterations required as subdivision improvements, such as grading, road building, installation of wastewater treatment systems, alteration of irrigation facilities, vegetation removal, construction of homes, etc. shall not occur on land proposed for subdivision until the BCC has given approval or conditional approval of the preliminary plat or plan. Alterations not required for the subdivision, such as construction of one residence on a vacant property, and any alterations required for gathering data for a subdivision application, such as test wells, groundwater monitoring holes, and soils test pits shall be permitted. A subdivision shall be considered to be "proposed" if there has been a subdivision application submitted.

3-1-2. Transfers of Title

Except as noted below, a final subdivision plat must be filed for record with the County Clerk and Recorder before title to the subdivided land can be sold or transferred in any manner. After the preliminary plat of a subdivision has been approved or conditionally approved, the subdivider may enter into contracts to sell lots in the proposed subdivision if all of the following conditions are met (76-3-303, MCA):

- a. That under the terms of the contracts the purchasers of lots in the proposed subdivision make any payments to an escrow agent, which must be a bank or savings and loan association chartered to do business in the State of Montana;
- b. That under the terms of the contracts and the escrow agreement the payments made by purchasers of lots in the proposed subdivision may not be distributed by the escrow agent to the subdivider until the final plat of the subdivision is filed with the County Clerk and Recorder;
- c. That the contracts and the escrow agreement provide that if the final plat of the proposed subdivision is not filed with the County Clerk and Recorder within two years of the preliminary plat approval, the escrow agent shall immediately refund to each purchaser any payments made under the contract;
- d. That the contracts contain the following language conspicuously set out therein: "The real property which is the subject hereof has not been finally platted, and until a final plat identifying the property has been filed with the County Clerk and Recorder, title to the property cannot be transferred in any manner;" and
- e. That the County Treasurer has certified that all real property taxes and special assessments assessed and levied on the land to be divided have been paid.

3-1-3. Permission to Enter

The BCC, its designated agent(s), or affected agencies identified during the pre-application meeting may investigate, examine, and evaluate the site of the proposed subdivision to verify information provided by

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Subdivision Review Requirements and Procedures

the subdivider and to subsequently monitor compliance with any conditions if the preliminary plat is conditionally approved up to final plat approval, the close of a subdivision improvements agreement or as may be specifically provided for in a preliminary plat decision and noted in the required covenants and/or notifications document filed with the final plat. (Refer to Chapter 2 for the definition of "affected agency".) The submission of a subdivision application constitutes a grant of permission by the subdivider for the BCC, its agents, and affected agencies to enter the subject property. This consent applies to members of the public attending a noticed public meeting for a site visit, and at no other time.

3-1-4. Pre-application Process

- a. Prior to submittal of a subdivision application, the subdivider shall request a pre-application meeting with the Planning Department. The meeting shall occur within thirty (30) calendar days after the subdivider submits a written request for the meeting to the Planning Department that include the items listed in subsection (b).
- b. The written request for a pre-application meeting must include the following items:
 - i. A subdivision pre-application conference form and attachments (a copy is available with the Administrative Materials from the Planning Department) that includes the following information:
 - a. Property owner, subdivider and subdivider's representative contact information
 - b. Property information such as legal description, tax identification number, address, area of property, current uses, irrigation water rights, and within which school, fire, irrigation, and sewer districts the property is located.
 - c. An overview of the proposal, such as number of lots/units, type of subdivision, and proposed uses
 - ii. The pre-application conference fee;
 - iii. A concept plat/plan of the proposed subdivision showing the layout of the proposed features in relation to existing site conditions and supplemental information (a list of features to be shown is included on the subdivision pre-application conference form in the Administrative Materials available at the Planning Department); and
 - iv. Other supplemental maps and information, including:
 - a. Vicinity map (minimum 8½" x 11")
 - b. Copies of any existing covenants, zoning, deed restrictions, existing easements and rights-of-way, and/or conservation easements
 - c. List of potential variances that may be needed
- c. At the pre-application meeting:
 - i. The Planning Department shall identify, for informational purposes, the State laws, local regulations and Growth Policy provisions that may apply to the subdivision review process including, but not limited to, zoning regulations, environmental health regulations and floodplain regulations;

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Subdivision Review Requirements and Procedures

- ii. The Planning Department shall provide the subdivider with a list of public utilities; local, state and federal agencies; and any other entities that have an interest in the proposed subdivision and that may be contacted for comment by the Planning Department about the subdivision application. The Planning Department shall also identify the timeframes that the public utilities, agencies, and other entities are given to respond (see Sections 3-2-3(b) and 3-3-3(b) regarding notification requirements); and
- iii. The Planning Department may identify additional information the Planning Department anticipates will be required for review of the subdivision application. This does not limit the ability of the Planning Department to request additional information related to one or more of the required elements at a later time.
- d. Unless the subdivider submits a subdivision application within six (6) months of this pre-application meeting, the subdivider must request a new pre-application meeting prior to submitting the subdivision application.

3-1-5. Subdivision Application and Preliminary Plat Submittal

- a. The subdivider shall submit to the Planning Department a subdivision application including the elements listed below, some of which are described in more detail in subsections that follow the element listing. If a listed item is believed by the subdivider not to be applicable, the subdivider shall provide an explanation in lieu of the listed item, subject to review per Section 3-1-6.
 - i. Completed and signed Subdivision Application Form;
 - ii. Required review fee;
 - iii. Preliminary plat (See Section 3-1-5(b));
 - iv. Reduced copy (8½" x 11", 8½" x 14", or 11" x 17") of preliminary plat;
 - v. Soils map and related information regarding soil types on the property, suitability of those soil types for development or agriculture and source information, based on the most recent soils survey or onsite investigations;
 - vi. Variance approvals;
 - vii. Proposed covenants;
 - viii. Proposed easements;
 - ix. List of names and addresses of each property owner of record and each purchaser under contract for deed for land adjoining the subject property, as filed with the Ravalli County Clerk and Recorder's Office;
 - x. Wildland fire hazard determination and evidence the proposal meets the relevant standards, refer to Chapter 5, Article 5;
 - xi. Phasing plan and schedule;
 - xii. Evidence of submittal to RCEH for water and sanitation information required per MCA 76-3-622.
 - A. Submittal of the checklist (which shall be limited to information required by MCA 76-3-622) from RCEH stating the information is complete;
 - xiii. Preliminary engineering plans for any public or private sewer or water system;
 - xiv. Plan for parkland dedication/donation;
 - xv. Plans for addressing additional provisions for Mobile Home Parks in Chapter 5;
 - xvi. Plans for addressing additional provisions for Recreational Vehicle Parks in Chapter 5;

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- xvii. Preliminary approach and encroachment permits from MDT and the County, or evidence of approvable approaches;
- xviii. Preliminary road name approval from the Ravalli County GIS Department;
- xix. Estimated pro rata share, based on the preliminary plat application -which shall be utilized to determine the amount due at final plat application in accordance with the preliminary plat decision. (See definition of Pro-Rata Share)
- xx. Documentation showing that the subdivider has applied for necessary permits where applicable, such as those from Bitterroot Conservation District, US Army Corps of Engineers, and/or Ravalli County Floodplain Program;
- xxi. Documentation of legal and physical access;
- xxii. Documentation of the history of the tract for any first minor subdivision;
- xxiii. Title Report including such information as:
 - A. Existing covenants, deed restrictions, and other similar recorded restrictions and
 - B. Existing easements;
- xxiv. Other existing covenants, deed restrictions, easements and other recorded restrictions not included in the Title Report;
- xxv. Documentation of existing water rights;
- xxvi. Letter requesting a revocation of agricultural covenant;
- xxvii. Evidence of known locations of any cultural or historic resources;
- xxviii. Evidence that the noxious weed evaluation form was submitted to the Ravalli County Weed District;
- xxix. Site design and building layout plan, if needed per Section 5-2-2(a)(11);
- xxx. Vicinity map – 8 ½" x 11" using latest USGS version at original scale, showing the following as appropriate:
 - A. Boundaries of subject property,
 - B. Location and names of adjacent roads,
 - C. Approximate location of municipal boundaries,
 - D. Rivers, creeks or streams,
 - E. Private or public airport (including landing strips), if the subdivision is located near one, and
 - F. Shooting range, if the subdivision is located near one
- xxxi. Aerial photo (2004 or later) of the property and the general area - 8 ½" x 11" - showing:
 - A. The date of the photo,
 - B. Scale,
 - C. Boundaries of the subject property, and
 - D. Changes that have occurred since the photo was taken;
- xxxii. Variance request(s), including the following information (if this information is provided as part of the subdivision application it does not also need to be submitted with the variance request):
 - A. Accurate identification of Section of the Subdivision Regulations from which the variance is proposed,
 - B. Identification of hardship or practical difficulty,
 - C. Application that addresses the five review criteria,

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- D. Supporting materials, which may include the following:
 - (1) Vicinity Map
 - (2) Aerial Photo
 - (3) Plat (reduced or full-sized), if appropriate
 - (4) Grading and drainage plans, if appropriate
 - (5) Copies of covenants, zoning and/or other land use restrictions, if applicable
 - E. List of adjoining landowners
 - F. Other information relevant to review of the proposal against the variance review criteria in Chapter 7;
- xxxiii. A list of all downstream irrigation users of any irrigation infrastructure proposed to be relocated/altered;
- xxxiv. Traffic impact analysis, is required as follows:
- A. When Required.
 - (1) A traffic impact analysis, as described in this section, shall be prepared and submitted along with the preliminary plat application when the proposed development of six or more lots, as identified in the subdivision plat, has the potential to generate traffic greater than 25% of the current traffic volume on any county-maintained road(s), or changes the functional classification on any road, utilized for access to the subdivision.
 - (2) Trip generation rates for a single-family residence and any other land uses shall be based on the trip generation rates in the manual entitled "Trip Generation" (latest edition) published by the Institute of Transportation Engineers.
 - B. Preparation. The analysis shall be prepared by a professional engineer with expertise in transportation planning.
 - C. Form and Content. The traffic impact analysis shall be in written form along with supporting maps and other information as appropriate. At a minimum, the report shall include the following elements:
 - (1) Existing traffic circulation conditions and patterns,
 - (2) Anticipated traffic circulation conditions and patterns,
 - (3) Effects on the road network,
 - (4) Recommendations/alternatives to alleviate negative effects.
 - (5) Existing Average Daily Traffic
 - (6) Projected Average Daily Traffic
- xxxv. One copy of the master irrigation plan, is required as follows:
- A. When Required. A master irrigation plan, as described in this section, shall be prepared and submitted along with the preliminary plat application if an irrigation water right will be conveyed with one (1) or more of the lots within the subdivision. Note: Water rights are conveyed with land ownership unless specifically severed from the land by deed or other operation of law.

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- B. Preparation. The plan and support documentation shall be prepared by a person with a working knowledge of irrigation water delivery systems.
 - C. Format. The plan shall be prepared according to the following format and it may be included on the preliminary plat:
 - (1) The page size shall be the same size as required for a preliminary plat.
 - (2) Where multiple sheets are used, a cover sheet with index shall be included and each sheet shall show the number of that sheet and the total number of sheets included.
 - (3) The plan shall be legible showing all of the required information.
 - (4) The plan shall be prepared at the same scale as required for a preliminary plat.
 - D. Required Content. The plan shall include, as appropriate, the following elements:
 - (1) The location of all existing and new diversion points, ditches, pipes, pumps, heads, and associated easements.
 - (2) A watering schedule that shows when each of the users can use water from the system.
 - (3) The means to share in the cost of operating and maintaining those elements of the delivery system held in common.
 - (4) The amount of water allocated to each of the lots.
- xxxvi. Preliminary road plans and grading and stormwater drainage plans, or relevant exemption information, as described below, and evidence that the road plans and applicable fees have been submitted to the RCRBD.
- A. General: Construction of and materials for all grading, drainage, and roadways shall conform to the Montana Public Works Standard Specifications, 5th edition (2003 and updates).
- Preliminary grading and drainage plans are acceptable at the preliminary plat stage provided they are of sufficient detail and scope, as determined by the Road Supervisor, in consultation with the Ravalli County contracting engineer, to allow sufficient public and governing body review of the proposal and provide sufficient information for the governing body to evaluate impacts that may result from the implementation of those plans.
- B. Road Plans. Two copies of road plans shall be provided for all roads to be constructed or reconstructed within or outside of the subdivision boundaries. Road plans shall be prepared by a licensed professional engineer and shall include the following elements:
 - (1) For each type of road proposed, typical cross sections for the full easement width;
 - (2) Road grades,
 - (3) Road profiles for all proposed roads which have grades exceeding 7% or cuts and fills exceeding three feet;

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- (4) Type and location of other infrastructure within the road easement, such as sidewalks, walkways and curbs/gutters, if there are any;
 - (5) Other information as appropriate; and,
 - (6) Evidence that the road plans meet the road standards in the Ravalli County Subdivision Regulations.
 - (7) Road counts, dated within one year of application submittal, for any County-maintained road(s) serving the subdivision as part of the primary access route. Only required for major subdivisions.
- C. Grading and Storm Water Drainage Plans. Two copies of Grading and Storm Water Drainage Plans shall be prepared by a licensed professional engineer and provided in accordance with MDEQ Circular 8 as amended, and the Administrative Rules of Montana (ARM) for all subdivisions in which a road is to be constructed or reconstructed, including subdivisions with lots greater than 20 acres in size. In addition to meeting MDEQ Circular 8 requirements, grading and storm water drainage plans shall provide a description and calculations of the proposed storm drainage plan for a ten (10) year frequency one (1) hour storm on-site and calculations and a method to mitigate a 100 year frequency one (1) hour storm. Grading and Storm Water Drainage Plans are not required for subdivisions when an exemption outlined in subsection (D) below applies.
- D. Grading and Storm Water Drainage Plans Exemptions.
 - (1) Exemptions (from using MDEQ Circular 8 as amended, and the Administrative Rules of Montana), when preparing grading and drainage plans shall be granted if the subdivision meets all of the exemption criteria in MDEQ Circular 8, as amended.
 - (2) Grading and Storm Water Drainage Plans for Subdivisions Exempt from Utilizing MDEQ Circular 8. To qualify for the exemption noted above, two copies of the evidence that the subdivision meets the criteria above must be submitted with the storm water drainage plan. Storm water drainage plans that qualify for an exemption from MDEQ Circular 8 shall be prepared by a licensed professional engineer. In addition to providing evidence that the subdivision meets the exemption, the exempted storm water drainage plans shall demonstrate how drainage for any surface run-off affecting the subdivision will be addressed. Two copies of the exempted storm water drainage plans shall be submitted that include the following information:
 - (a) A narrative description of how drainage will be managed;
 - (b) Ground contours at an interval sufficiency to show slope, aspect and drainage features;
 - (c) Grades of existing and proposed streets;
 - (d) Locations and specifications for existing and proposed culverts and bridges;
 - (e) Locations and specifications for any other existing and proposed storm water drainage improvements;

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- (f) Locations of proposed and existing storm water drainage easements; and,
 - (g) Other information as may be requested by staff.
 - E. Approval packet from the Ravalli County Road and Bridge Department that includes the correspondence between the consulting engineer and the subdivider.
- xxxvii. Sensitive species report or waiver request, is required as follows:
 - (A) When Required. A sensitive species report, as described in this section, shall be prepared and submitted along with the preliminary plat application when the proposed subdivision is located in a section that contains a species or community of special concern as identified by the Montana Natural Heritage Program, Montana State Library. The Planning Director may waive this requirement when it can be shown by clear evidence that the subject property could not support the identified species or community.
 - (B) Preparation. The report shall be prepared by a qualified biologist or plant ecologist, as appropriate.
 - (C) Form and Content. The report shall be in written form along with supporting maps, drawings, and other information as appropriate. The report shall include, as appropriate, the following elements:
 - (1) The name of the species and/or community that is located in the section of the subdivision;
 - (2) The findings of an on-site investigation to determine whether that species and/or community is in fact found within or within 300-feet of the proposed subdivision;
 - (3) If the species and/or community is found, a map showing its location; and
 - (4) If the species and/or community is found, recommendations for ways to mitigate impacts, if any, caused by the subdivision.
- xxxviii. A preliminary road/common access maintenance agreement, is required as follows:
 - (A) When Required. A road/common access maintenance agreement, as described in this section, shall be prepared and submitted along with the preliminary plat application for all private roads, and common accesses, that provide legal access to lots within the subdivision.
 - (B) Required Content. The road/common access maintenance agreement shall, at a minimum, provide the following provisions:
 - (1) Description of the parcels that are subject to the agreement;
 - (2) The section of the road or location of the common access that is subject to the agreement;
 - (3) The agreement is binding on any person having an interest in a parcel that is subject to the agreement;
 - (4) That any person providing public utilities may use the utility easements for such purposes;

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- (5) Decisions to undertake any road maintenance is the responsibility of the landowners and shall be based on a majority vote (over 50%) of the parties to the agreement;
 - (6) Who is eligible to cast a vote (one vote per parcel);
 - (7) How the costs of road/common access maintenance will be assessed (equally or disproportionately) to the parties to the agreement;
 - (8) The amount that will be assessed in the event that a party subdivides a parcel that is subject to the agreement;
 - (9) In the event that an assessment becomes delinquent, the assessment and interest and the cost of collection shall become a continuing lien on the lot;
 - (10) The agreement is perpetual and cannot be rescinded unless the county or state agrees to maintain the roadway described in the agreement;
 - (11) Road/common access maintenance includes dust control, snow removal, maintenance of storm water drainage facilities, ordinary maintenance and reconstruction if necessary. Road maintenance shall also include on-street parking enforcement provisions, in accordance with on-street parking provided for in the road design, because failure to enforce on-street parking may result in the inability of emergency services providers to provide service to lots along this road(s);
 - (12) The agreement may be amended, except that it may not be amended to be less strict or less inclusive; and
 - (13) Notary statement.
- (C) Recordation of Agreement. The road/common access maintenance agreement shall be filed (prior to or concurrent with the filing of the final plat) with the Clerk & Recorder's Office as a single document and shall not include other provisions not related to road maintenance (e.g. land use restrictions, etc.), unless there is a provision in the document stating that the road maintenance agreement section in the covenants cannot be amended to be less strict or less inclusive.
- xxxix. Preliminary property owners' association documents, including draft articles of incorporation and bylaws, is required as follows:
- A. When Required. If common property is to be deeded to a property owners' association, the covenants and by-laws that govern the association must, at a minimum, provide for the formation of a property owners' association concurrently with the filing of the final subdivision plat. Articles of Incorporation shall be filed with the Secretary of State's office.
 - B. The property owners' association documents shall include the following information which shall be highlighted throughout the documents:
 - (1) Mandatory membership for each property owner. Purchasers of property may also be required to sign a waiver of right to protest the formation of a maintenance district to maintain improvements;
 - (2) A description of the common property (e.g. land and/or facilities) that the property owners will own in common;

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- (3) Perpetual reservation of the common property when required under 76-3-621(6)(a), MCA;
 - (4) Payment of liability insurance premiums, local taxes, and the cost of maintaining recreational or other facilities;
 - (5) Placement of liens on the property of lot owners who are delinquent in the payment of association fees and assessments;
 - (6) Process for adjusting assessments to meet changing needs;
 - (7) Means of enforcing the covenants, and of receiving and processing complaints;
 - (8) Transition of control of the association from the Declarant to the homeowners;
 - (9) Dissolution of the association and modification of the covenants and restrictions after obtaining the governing body's approval of the change; and
 - (10) Regular maintenance of roads, parks, buildings, drainage facilities, and other facilities controlled by the association.
- xl. Floodplain analysis or waiver, is required as follows:
- A. When Required. A floodplain analysis, as described in this section, shall be prepared and submitted along with the preliminary plat application when any portion of the subdivision is within 1,000 horizontal feet of a stream draining an area of 15 square miles or more and no official floodplain designation has been adopted. In consultation with the Floodplain Administrator, the Planning Director may waive the floodplain analysis if it can be clearly demonstrated by a licensed professional engineer or licensed surveyor that a significant topographic feature clearly defines the probable extent of the floodplain.
 - B. Preparation. The floodplain analysis shall be prepared by a licensed professional engineer or licensed surveyor.
 - C. Basis for Analysis. The floodplain analysis shall be based on one of the following methodologies:
 - (1) Output from the computer model entitled HECRAS, or a later version as prepared by the U.S. Corps of Engineers, Hydrologic Engineering Center;
 - (2) A different methodology as approved by the Planning Director and the Floodplain Administrator.
 - D. The analysis shall also be based on cross-sections according to the following minimum requirements:
 - (1) Cross sections shall be placed at representative locations throughout the floodplain reach of the subdivision and located in such a manner as to represent the flow reach between cross sections. Each flow manner shall represent the flow reach between cross sections. Each flow reach shall be as uniform in geometry and roughness as practical.
 - (2) Cross sections are required at locations where changes occur in discharge, channel/floodplain slope, shape, or roughness where levees begin/end; and at control structures such as weirs.

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- (3) At least three (3) cross sections shall be taken and used to describe bridges, culverts, constrictions, or where abrupt channel/floodplain changes occur.
 - (4) One (1) cross section midway between the proposed subdivision boundary lines or at intervals of no more than five hundred (500) feet.
 - (5) Additional cross sections may be required if any development associated with the proposed subdivision creates a backwater situation or a rise in base flood elevations.
- E. Form and Content. Three copies of the floodplain analysis along with a brief description of the project, study objectives and data shall be certified by a licensed professional engineer or a licensed surveyor. The following minimal information shall be submitted with the floodplain analysis:
- (1) Copy of the current FEMA FIRM map, with panel number noted, at the project location showing the location of the surveyed cross sections and the proposed subdivision (if applicable).
 - (2) A vicinity map (the latest version of the appropriate USGS 7.5 minute quadrangle or a similar scale aerial photograph) that clearly shows the following:
 - (a) The location of the subdivision and all of the cross-sections;
 - (b) Section, Township, and Range;
 - (c) The location and elevation of all culverts, bridges, levees, diversion dams, or any other type of hydraulic structure within the reach being analyzed;
 - (d) The location of the benchmark (with the NAVD 1988 datum) that was used in the survey; and
 - (e) The hydrologic drainage area of the stream being analyzed;
 - (3) A written narrative describing the vegetation along the banks and the material composition of the bed and banks, and any hydraulic structures. Color photographs shall be required when proposed hydraulic data is atypical.
 - (4) A written narrative describing all culverts and bridges (size, type, etc.), or any hydraulic structure, within the reach.
 - (5) A discussion of the discharge estimation method along with a detailed description of the methodology, data, and computations so that the analysis may be replicated. This shall include:
 - (a) A discussion of the model choice and methodology (i.e. normal depth, step backwater model type);
 - (b) A summary of available gauge sites if applicable and a discussion of discharge estimations;
 - (c) Copies of model input/output printed and on CD or DVD;
 - (d) A discussion of the model parameters used including Manning's "n" values, starting water surface elevations and flow regimes;
 - (e) A discussion of any special concerns, bridges, levees, hydraulic structures, side channels, or ineffective flow areas that may be applicable to the project; and
 - (f) A discussion of model results, warnings, and assumed critical depths.

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- (6) Drawings of each cross-section that clearly shows the following:
 - (a) Elevation of the ground surface;
 - (b) Elevation of the water surface at the time of the survey;
 - (c) Elevation of the 100-year floodplain; and
 - (d) The apparent high-water mark.
 - (7) A copy of the plat with ground contours (at a sufficient interval to clearly delineate the floodplain boundaries) that clearly shows the following:
 - (a) The location of all cross-sections and elevation reference marks;
 - (b) The water course, property boundaries, proposed lots, building sites, and wastewater treatment systems;
 - (c) The location of all culverts, bridges, or any hydraulic structures;
 - (d) The location of the FEMA-mapped 100-year floodplain, where applicable; and
 - (e) The location of the actual 100-year floodplain boundary based upon the intersection of the 100-year base flood elevation and the natural grade.
 - (8) Additional information may be required if there is potential for adverse effect to adjacent property owners and/or the 100-year base flood elevations are changed.
 - (9) Documentation showing that the subdivider has applied for necessary permits where applicable, such as those from Bitterroot Conservation District, US Army Corps of Engineers, and/or Ravalli County Floodplain Program;
- xli. Environmental Assessment and/or Summary of Probable Impacts (unless excepted per Section 3-2-2(a) or 3-3-2(a)) An Environmental Assessment shall meet the following form and content requirements:
 - A. Form
 - (1) Using available information the subdivider shall provide a response to each question.
 - (2) Each response shall follow the outline and shall be identified with the appropriate section heading, number and letter. If a particular question is not relevant to the proposed subdivision, state the reason it does not apply--a response of "N/A" is not sufficient.
 - (3) For each question identify the source(s) of information and describe all attempts made to secure appropriate information.
 - (4) Onsite inspections may be made regarding any particular question. Deliberate falsification or omission of any part of the questionnaire shall constitute grounds for rejection of the entire subdivision application.
 - B. Content
 - (1) Environmental Information
 - (a) Describe each body or stream of surface water (man-made and natural) (on-site and off-site) that may be affected by or affect the proposed subdivision.

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- (b) Using available information, describe groundwater conditions under the subdivision, including depth to ground water when it is nearest the surface.
- (c)
 - (i) Describe any known hazards affecting the development which could result in property damage or personal injury due to falls, slides or slumps etc. -- soil, rock, mud, snow and seismic activity, etc.
 - (ii) Describe any proposed measures to prevent or reduce the danger of property damage or personal injury from any of these hazards.
- (d)
 - (i) Describe the existing vegetation types (marsh, grassland, forest, agricultural) and efforts to be taken to protect trees and natural vegetation cover (e.g. design and location of lots, roads, and open spaces).
 - (ii) Identify plant communities and plant species that are considered as being of special concern by the Montana Natural Heritage Program.
- (e)
 - (i) Identify all major species of fish and wildlife that use the area.
 - (ii) Identify animal species that are considered as being of special concern by the Montana Natural Heritage Program.
 - (iii) Identify and describe important wildlife areas, such as big game winter range, nesting areas, habitat for rare or endangered species, and wetlands.
 - (iv) Describe any proposed measures to protect wildlife habitat or to minimize degradation (e.g. keeping buildings and roads away sensitive areas, etc.).
- (f)
 - (i) Identify and describe historic, archaeological, or cultural sites (on-site and off-site) that may be affected by the subdivision.
 - (ii) Describe what measures will be taken to protect such sites.
- (2) Local Services Needs
 - (a) Provide a detailed statement documenting the anticipated needs of the subdivision for each of the following:
 - (i) local services, including education and business;
 - (ii) roads and maintenance;
 - (iii) central water facilities;
 - (iv) central sewer facilities;
 - (v) solid waste facilities;
 - (vi) fire protection; and
 - (vii) police protection.

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(b) Complete the following table.

		Distance to each feature by road type (to nearest tenth of a mile).		
	Name & Location	Gravel	Paved	Total
Fire Protection				
Police Protection				
Hospital Facilities				
Ambulance Service				
Elementary School				
Middle School				
High School				
Closest Community				

(3) Probable Impacts

(a) Provide a summary of the probable impacts of the subdivision as they relate to each of the following criteria (See also Section 3-2-8(b)(v)):

- (i) agriculture, including the agricultural sector, loss of agricultural ground, and surrounding agricultural activities or practices;
- (ii) agricultural water-user facilities;
- (iii) local services, including the public road system, police and fire protection, utilities, and public schools;
- (iv) natural environment, including riparian/wetland areas, soil erosion, vegetation, and air pollution, and noxious weeds;
- (v) wildlife and wildlife habitat, including fisheries and mammals; and
- (vi) public health and safety, including police and fire protection, wildland fire hazard, traffic safety, and the presence of other hazards (onsite and offsite) such as high-pressure natural gas lines, airports, railroads, overhead power lines, industrial activities, mining activities, irrigation ditches, and defined dam inundation areas.

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xlii. A common development plan (CDP) is required as follows:

- (A) When required. A CDP shall be prepared and submitted when two or more landowners agree to undergo concurrent public review for adjoining subdivision proposals.
- (B) Form and content. A CDP shall consist of the following:
 - (1) The preliminary plat submittal for each subdivision under the CDP shall include a written statement verifying the applicant's participation in the CDP.
 - (2) In addition to the individual subdivision plats, participating applicants shall submit one copy of an overall development plan showing all subdivisions subject to the CDP. The plan shall be the same size as required for a preliminary plat and shall include, at a minimum:
 - (a) Boundaries of subject properties;
 - (b) All proposed lot lines, including common areas;
 - (c) Overall land use summary (number, acreage, and use of lots; acreage of common space);
 - (d) Layout of all proposed roads and accesses, and all existing roads within 300 feet of the subject properties;
 - (e) Notation of any facility or property to be held in common between the respective homeowners' associations;
 - (f) Adjacent property boundaries, current landowners, and existing uses thereon.
- (C) Special procedures. Subdivisions under a CDP shall be subject to the following provisions:
 - (1) If one subdivision under a CDP receives a determination of sufficiency for public review prior to another, the 60- (or 35-) working day period of the former shall be suspended until the latter is deemed sufficient for public review.
 - (2) When considering the subdivisions for preliminary or final plat approval, the BCC shall issue their decisions on all participating subdivisions at the same public hearing.
 - (3) The total preliminary and final plat review fees for the subdivision proposals under the CDP shall equal the fees for one subdivision containing the total number of lots within the CDP. All other fees must be paid separately.
 - (4) At any time prior to final plat approval, a participating applicant may revoke their inclusion in the CDP by submitting a statement to the

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Planning Department in writing. The Planning Department may consider such revocation as a material modification for any or all of the subdivisions under the original CDP, subject to the provisions of Sections 3-2-9, 3-3-8, or 3-4-1, as appropriate.

- xliii. Statement of proposed mitigation for potential hazards or other adverse impacts as identified in the pre-application meeting and not covered by any of the above required materials (see review criteria in Section 3-2-8(b)(v));
 - xliv. Such additional relevant and reasonable information as was identified by the Planning Department during the pre-application meeting that is pertinent to the required elements of this section or the review criteria in Section 3-2-8; and
 - xliv. Any other documentation needed as evidence that the subdivision meets the design and development standards in Chapter 5.
- b. The preliminary plat/plan shall adhere to the following form and contents requirements:
- i. Format
 - A. Prepared by a land use planner, professional engineer, or a professional land surveyor, unless proposal is for a subdivision for lease or rent (preliminary plan)
 - B. Page size is 24" x 36" or 18" x 24"
 - C. If there are multiple pages, then numbered 1 of __ pages
 - D. Provide one digital (.dxf) copy
 - ii. Content
 - A. Project information, including title block/project name, developer and landowner (if different), preparation date, name of preparer
 - B. Survey Information, including north arrow, graphic scale, legend, legal description of property, exterior property boundaries (bearings, lengths, curve data), and acreage of subject property. (Bearings and curve data not required for preliminary plan for a subdivision for lease or rent)
 - C. Project Development Information, including:
 - (1) Lots and blocks designated by number (dimensions and acreage) (for subdivisions for lease or rent show the existing and proposed home/building sites);
 - (2) Easements/rights of way (location, width, purpose, ownership) - easements may include those for irrigation, utility, road, common driveway, etc.- identify easements/rights of way as existing or proposed;
 - (3) Easements/rights of way (location, width, purpose, ownership) - easements may include those for irrigation, utility, road, common driveway, etc.- identify easements/rights of way as existing or proposed;
 - (4) Dedication for public use (boundaries, area, purpose);
 - (5) No build/alteration zones, identified as existing or proposed;
 - (6) No ingress/egress zones, identified as existing or proposed; and
 - (7) Project phasing, if any.

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D. Setting, including:

- (1) Names of subdivisions/Certificates of Survey adjoining and within 300 feet of subject parcel;
- (2) Property boundaries within 300 feet of subject parcel;
- (3) Names of property owners within 300 feet of subject parcel;
- (4) Adjacent land uses within 300 feet of subject parcel; and
- (5) Municipal boundaries, if applicable.

E. Site Features, including:

- (1) Ground contours (For slopes greater than 8%, provide 2-foot intervals. Varying ground contour intervals that are sufficient to show significant features of the property may be accepted by the Planning Department. In some cases, ground contour intervals may only be required for those areas of a subject property proposed for development when the remaining areas of the property are identified as "no-build/alteration" zones. The USGS topographic map will suffice in place of contours on the preliminary plan for subdivisions for lease or rent to allow for one additional unit.);
- (2) Wetlands;
- (3) Woodlands;
- (4) Wildlife habitat;
- (5) Environmentally sensitive features, which may include areas such as those with 15% or greater slope, natural drainage features, wetlands and riparian areas, etc.;
- (6) Locations of soils rated as severe or very limited for residential building sites or roads and streets;
- (7) Water resources on and within 300 feet of the subject property (creeks, rivers, ponds, etc.);
- (8) Floodplains;
- (9) Irrigation canals, ditches and pipelines within 300 feet including diversion point(s);
- (10) High pressure gas lines within 100 feet;
- (11) Boundary of any dam inundation area (on the plat and location map, as appropriate) if the subdivision is within an inundation area; and
- (12) Sites of historical significance on or near the subdivision (show on plat and location map as appropriate).

F. Existing Buildings and Improvements (for project and within 300 feet), including:

- (1) Utilities (including water, sewer, telephone, power, etc.) Provide information on location, type, size/capacity, buried/overhead, as applicable. For individual wells and septic systems, provide approximate locations within 100 feet of the subject property. Labeled as existing or proposed;
- (2) Roads (names, ownership, etc.);

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- (3) Bridges that provide physical access to the subdivision (either on the plat or location map);
- (4) Driveways and road access onto public and private roads;
- (5) Buildings/structures (footprint, use, etc.); and
- (6) Traffic control signs (type, location).

G. Proposed Improvements and Construction Information, including:

- (1) Storm water/drainage system (location, specifications, etc.);
- (2) Road layout (Road details to be provided in the road plans);
- (3) Proposed irrigation facilities, if applicable;
- (4) Traffic control signs (type, location); and
- (5) Locations of proposed utilities including sewer, water, telephone, power, etc.

3-1-6. Initial Review Procedure

For all subdivisions, the initial review process is as follows:

a. Element Review

Within five (5) working-days of receipt of the subdivision application and fee, the Planning Department shall determine whether the application contains all of the elements required by Section 3-1-5 and shall give written notice to the subdivider of the Planning Department's determination. The element review does not include an evaluation of the sufficiency of the information that may be noted in the subsections following each element.

- i. If the Planning Department determines that elements are missing from the application, the Planning Department shall identify those elements in the notification, and no further action shall be taken on the application by the Planning Department until the required elements have been submitted.
- ii. The subdivider may correct the deficiencies and submit the required elements without fees, within six (6) months of the date of the notification. Failure to correct the deficiencies within six (6) months of the notification shall result in forfeiture of the application fee and shall require a new written pre-application conference request per Section 3-1-4(b) prior to any further consideration of the subdivider's proposal.
- iii. If the subdivider corrects the deficiencies and submits the required elements, the Planning Department shall have five (5) working-days to notify the subdivider whether the application contains all the elements required by Section 3-1-5, as applicable.

b. Sufficiency Review

- i. Within fifteen (15) working-days after the Planning Department notifies the subdivider that the application contains all of the required elements as provided in subsection (a) above, the Planning Department shall determine whether the application and required elements contain detailed, supporting information that is sufficient to allow for the review

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of the proposed subdivision under these regulations and shall give written notification to the subdivider of the Planning Department's determination. Sufficiency review shall include the review of the detailed information listed under the element headings in Section 3-1-5(a) and the preliminary plat requirements listed in Section 3-1-5(b).

- A. If the Planning Department determines that the information in the application is not sufficient to allow for review of the proposed subdivision, the Planning Department shall identify specific required information in the notification and no further action shall be taken on the application by the Planning Department until the material is resubmitted.
 - B. The subdivider may correct the deficiencies and resubmit the application within six (6) months of the date of the notification or forfeit the application fee.
 - C. If the subdivider corrects the deficiencies and resubmits the application in accordance with (i)(B) above, the Planning Department shall have fifteen (15) working-days to notify the subdivider whether the resubmitted application and required elements contain detailed, supporting information that is sufficient to allow for review of the proposed subdivision under these regulations.
- ii. A determination that an application contains sufficient information for review as provided in this subsection (b) does not ensure that the proposed subdivision will be approved or conditionally approved by the BCC and does not limit the ability of the Planning Department and the BCC to request additional information related to one or more of the elements listed in Section 3-1-5 during the review process.
 - iii. A determination of sufficiency by the Planning Department pursuant to this subsection does not limit the RCEH or DEQ from requiring additional water and sanitation information as part of the RCEH or DEQ review of water and sanitation information.
- c. **Applicable Regulations**

Subdivision review and approval, conditional approval, or denial shall be based on those subdivision regulations in effect at the time a subdivision application and preliminary plat is deemed to contain sufficient information for review per Section 3-1-6(b). If subdivision regulations change during the element or sufficiency review, the determination of whether the application contains the required elements and sufficient information, and the subdivision review, shall be based on the new subdivision regulations.

3-2. MAJOR AND SUBSEQUENT MINOR SUBDIVISIONS - REVIEW PROCEDURES

Subdivisions that qualify for major subdivision review are those divisions of land containing six (6) or more lots, or subdivisions of five (5) or fewer lots that do not otherwise qualify for review as first minor subdivisions. See Chapter 2 for definition of subdivision, first minor.

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3-2-1. Subdivision Application and Preliminary Plat Submittal

Following a determination that an application contains sufficient information for review, the subdivider shall submit to the Planning Department the required number of subdivision applications (refer to administrative materials available at the Planning Department), each containing the materials identified in Section 3-1-5 and in the pre-application meeting.

3-2-2. Exceptions

- a. The requirement for preparing an environmental assessment does not apply, pursuant to 76-3-210, MCA, when:
 - i. The proposed subdivision is totally within an area covered by a growth policy adopted pursuant to sections 76-1-601 through 76-1-606, MCA; and
 - ii. The governing body has adopted zoning regulations pursuant to section 76-2-201, MCA; and
 - iii. The governing body has adopted a strategy for development, maintenance, and replacement of public infrastructure pursuant to section 76-1-601(3)(e), MCA.
- b. The Planning Board may waive the requirement for preparing any portion of the environmental assessment when the proposed subdivision is in an area covered by a growth policy adopted pursuant to sections 76-1-601 through 76-1-606, MCA, and the proposed subdivision will be in compliance with the policy; or when the subdivision will contain fewer than ten (10) parcels and less than twenty (20) acres.
 - i. When an exemption from preparing any portion of the environmental assessment is sought, the applicant shall meet with the Planning Board, explain why the exception is appropriate, and if granted the Planning Board shall prepare and certify a written statement of the reasons for granting the exception.
 - ii. A copy of this statement must accompany the subdivision application when it is submitted for review and shall be filed with the final plat.
- c. The parkland dedication requirement does not apply when exempted per the provisions of 76-3-621(3), MCA.

3-2-3. Time Period for Approval, Conditional Approval, or Denial

- a. The sixty (60)-working-day period begins for a subdivision application when the Planning Department notifies the subdivider or the subdivider's agent in writing that the application contains sufficient information to conduct the review. Within sixty (60) working-days, the BCC shall approve, conditionally approve, or deny the proposed subdivision in accordance with Section 3-2-7 of these regulations, unless the subdivider and the Planning Department agree to an extension or suspension of the review period.

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b. Public Agency and Utility Review

Review and comment by public agencies or utilities may not delay the BCC's action on the subdivision application beyond the sixty (60)-working-day review period. If, during the review of the application, the Planning Department or the Planning Board contacts a public utility, agency, or other entity that was not included on the list provided during the pre-application meeting, the Planning Department shall notify the subdivider of the contact and the timeframe for response. Also refer to Sections 3-1-4(c)(ii) and 3-2-4(b)(iv).

3-2-4. Public Hearing – Notification Requirements

a. Hearing

After the subdivision application has been deemed to have all the required elements and to contain sufficient information for review, the BCC shall schedule and hold a public hearing on the subdivision application.

b. Notice

- i. The notice of the time, date and location of the hearing shall be published by the Planning Department in a newspaper of general circulation in the county not less than fifteen (15) calendar-days prior to the date of the hearing.
- ii. Notice of the hearing shall be sent by certified mail to the subdivider, each adjoining landowner to the subject property, and each purchaser under contract for deed of property immediately adjoining the subject property at least fifteen (15) calendar-days prior to the date of the hearing. The notice shall be prepared and mailed by the Planning Department. The failure of any person required by this section to receive the notice shall not invalidate or otherwise have any effect upon a public hearing or action taken on the application.
- iii. Notice shall be posted in at least one conspicuous place on the site of the proposed subdivision at least fifteen (15) calendar-days prior to the date of the hearing. The notice shall be prepared by the Planning Department and posted by the subdivider. The subdivider shall sign an affidavit stating compliance with this provision. The destruction or removal of the posting required by this section shall not invalidate or otherwise have any effect upon a public hearing or action taken on the application.
- iv. The Planning Department shall prepare and send a summary of the subdivision application, a reduced copy of the preliminary plat and the date, time and location of the public hearing at least fifteen (15) calendar-days prior to the date of the hearing by regular mail to each affected agency, including, but not limited to state and federal agencies, school and fire districts, irrigation districts, and utility companies. Also refer to Sections 3-1-4(c)(ii) and 3-2-3(b).
- v. The Planning Department shall send one copy of the application at least fifteen (15) calendar-days prior to the date of the hearing to the local unit of government for review and comment when the project lies within one (1) mile of a third class city, within two (2) miles of a second class city or within three (3) miles of a first class city.

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- vi. The Planning Department shall send the application at least fifteen (15) calendar-days prior to the date of the hearing to the Ravalli County Planning Board for review and comment.
- vii. The Planning Department shall publish a staff report based on the requirements in Section 3-2-8. The staff report shall be made available to the public, sent to the applicant and the applicant's agent, the Planning Board, and the BCC no later than ten (10) working-days prior to the public hearing.

3-2-5. Subdivider's Preference for Mitigation

No later than two (2) working-days prior to the meeting or hearing at which the BCC is to consider the subdivision application and preliminary plat, the subdivider is encouraged to submit in writing to the Planning Department the subdivider's comments on and responses to the staff report's recommendations and the Planning Board's advice, if available and applicable. The BCC shall consult with the subdivider and will give due weight to the subdivider's expressed preference regarding mitigation for the impacts of the subdivision during their deliberations.

3-2-6. Public Hearing – Procedural Requirements

- a. The public hearing agenda shall be held according to the following format:
 - i. Disclosure of actual, possible, and perceived conflicts of interest
 - ii. Staff report on the proposal
 - iii. Open public comment on the proposal, starting with the subdivider and followed by other members of the public
 - iv. Close public comment part of the hearing
 - v. Receipt of advice from Planning Board

The BCC will receive any written advice submitted by the Planning Board.

 - vi. BCC deliberation on the proposal, starting with variances if there are any
 - A. BCC discussion and questions (to Planning Board, proponents and opponents only as needed)
 - B. BCC action
 - (1) Review of the proposal against the decision and documentation requirements in Section 3-2-8

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- (2) Consultation with the subdivider as to the subdivider's expressed preference regarding mitigation for the impacts of the subdivision and/or variances
 - (3) BCC decision
 - Options:
 - Postpone decision, but not beyond the statutory 60-day review period without consent of the subdivider; or
 - Approve with rationale; or
 - Approve with conditions and rationale; or
 - Deny with rationale
- vii. Close the public hearing
- b. When the BCC postpones making a decision on a subdivision application as provided for in Section 3-2-6(a)(vi)(B)(3) of these regulations, and additional information regarding the subdivision is submitted, the BCC shall determine whether public comment(s) or document(s) presented for consideration at the BCC's public hearing constitute either:
 - i. Information or analysis of information that was presented at the public hearing on the subdivision application that the public has had a reasonable opportunity to examine and on which the public has had a reasonable opportunity to comment, in which case the BCC shall proceed to its decision whether to approve, conditionally approve, or deny the proposed subdivision; or
 - ii. New information or analysis of information that has never been submitted as evidence, in which case the BCC shall proceed as set forth in subsection (c) below.
- c. If the BCC determines that public comments or documents presented at the hearing constitute new information or an analysis of information regarding the subdivision application that has never been submitted as evidence, the BCC shall determine whether the public comments or documents are relevant and credible with regard to the BCC's decision, pursuant to subsections (d) and (e) below.
 - i. If the BCC determines the information or analysis of information is either not relevant or not credible, then the BCC shall approve, conditionally approve, or deny the proposed subdivision without basing its decision on the new information or analysis of information; or
 - ii. If the BCC determines the new information or analysis of information is relevant and credible, then the BCC shall schedule a subsequent public hearing.
 - iii. The BCC shall consider only the new information or analysis of information that may have an impact on the findings and conclusions that the BCC will rely upon in making its decision on the proposed subdivision.

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- d. New information or analysis of information is considered to be relevant if it may have an impact on the findings and conclusions that the BCC will rely upon in making its decision on the proposed subdivision.
- e. New information or analysis of information is considered to be credible if it is based on one or more of the following:
 - i. Physical facts or evidence;
 - ii. Evidence provided by a person with professional competency in the subject matter;
 - iii. Scientific data, supported by documentation; or
 - iv. Personal observations supported by photographs or one of the above items.

3-2-7. Subsequent Public Hearing

- a. If a subsequent public hearing is held pursuant to Section 3-2-6(c)(ii), it must be held within forty-five (45) calendar-days of the BCC's determination to schedule a subsequent hearing. Only the new information or analysis of information shall be considered at the subsequent public hearing.
- b. Notification of the subsequent public hearing regarding the new information shall be subject to Section 3-2-4(b).
- c. If a subsequent public hearing is held, the sixty (60)-working-day review period is suspended as of the date of the BCC's decision to schedule a subsequent hearing. The sixty (60)-working-day review period resumes on the date of the BCC's next scheduled public meeting for which proper notice for the public meeting on the subdivision application, including the new information, can be provided.
- d. The BCC may not consider any information regarding the subdivision application that is presented after the subsequent public hearing when making its decision to approve, conditionally approve, or deny the proposed subdivision.

3-2-8. BCC Decision and Documentation

- a. Prerequisites to Approval

The BCC shall not approve or conditionally approve a subdivision application and preliminary plat unless it is established by credible evidence that the proposed subdivision:

- i. Provides easements for the location and installation of any planned utilities;
- ii. Provides legal and physical access to each parcel within the subdivision and the notation of that access is included on the applicable plat and in any instrument transferring the parcel;

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- iii. Assures that all required public or private improvements will be installed before final plat approval, or that their installation after final plat approval will be guaranteed as provided by Section 3-4-4 of these regulations;
- iv. Assures that the requirements of 76-3-504(1)(j), MCA, regarding the disclosure and disposition of water rights as set forth in Chapter 5 have been considered and will be accomplished before the final plat is submitted;
- v. Assures that the requirements of 76-3-504(1)(k) MCA, regarding watercourse and irrigation easements as set forth in Chapter 5 have been considered and will be accomplished before the final plat is submitted; and
- vi. Provides for the appropriate park dedication or cash-in-lieu, if applicable.

b. Consideration – Standards

In approving, conditionally approving, or denying a subdivision application and preliminary plat, the BCC shall ensure the subdivision application meets subsection (a) above, and whether the proposed subdivision complies with:

- i. These regulations, including, but not limited to, the standards set forth in Chapter 5;
- ii. Applicable zoning regulations;
- iii. Existing covenants and/or deed restrictions;
- iv. Other applicable regulations; and
- v. The MSPA, including but not limited to an evaluation of the impacts of the subdivision on the following criteria:
 - A. Agriculture, including:
 - (1) Adjacent agricultural operations
 - (2) Prime and important agricultural soils including the loss or disturbance of prime farmland and farmland of statewide importance
 - (3) Proliferation and distribution of noxious weeds
 - (4) Human and/or pet interference with livestock and agricultural practices
 - B. Agricultural water user facilities, including:
 - (1) Water availability to agricultural water users
 - (2) Facilities or facility users and potential conflicts with subdivision residents, including:
 - (a) Seeps, flooding, and washouts
 - (b) Obstructions and interference
 - (c) Unintended uses (recreation and landscaping)

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- (d) Access for maintenance
 - (e) Liability and risk of accidents involving trespassers
 - (3) Water right holders, including clarification of transfer/retention of water rights
 - (4) The placement and/or alteration of irrigation easements and ditches
- C. Local services, including:
 - (1) Current and planned level of service capacity for local services including fire districts, school districts, wastewater treatment districts, water districts, law enforcement, emergency services, public health services, solid waste services and facilities, public domestic water systems, utilities, roadways, bridges, and bicycle/pedestrian facilities
 - (2) Costs of services
 - (3) Facilities and provision of services
 - (4) Adequate easements
 - (5) Rural and special improvement districts, both existing ones and assessment of the need for new ones
- D. Natural environment, including:
 - (1) Air quality
 - (2) Ground water quality (see also subsection (F)(3) below) and quantity including aquifers
 - (3) Surface water features such as streams, rivers, and riparian areas, including additional storm water runoff caused by increased area of impervious surface
 - (4) Wetlands
 - (5) Light pollution
 - (6) Known historical, paleontological, archeological, cultural and scenic sites
 - (7) Vegetation including the composition and distribution of natural vegetation versus invasive weeds
 - (8) Sensitive species of plants, as identified by the Montana Natural Heritage Program.
 - (9) Soils, topography, geology, soil erosion
 - (10) Ecosystems
 - (11) Noise levels, ambient and anticipated
- E. Wildlife and wildlife habitat, including:
 - (1) Critical, significant, and important wildlife habitat, such as wildlife corridors and areas essential for breeding, rearing, nesting and/or winter feeding and foraging
 - (2) Species of special concern, as identified by the Montana Natural Heritage Program
 - (3) Human and/or pet interference with wildlife

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- (4) Fisheries and mammals in general

F. Public health and safety, including:

- (1) Traffic safety
- (2) Emergency vehicle access and response time for police, fire, and ambulance
- (3) Groundwater quality, including assessment of the impacts of a subdivision as it relates to the effects of existing and approved developments on groundwater quality, particularly in regards to wastewater (sewage) treatment systems and water supplies. The requirement for MDEQ or RCEH approval prior as a requirement of final plat approval, shall be considered in the analysis impacts of the subdivision on groundwater quality.
- (4) Risk of exposure to natural and/or man-made hazards such as floodplain, steep slopes, severe soils, shooting ranges, active seismic areas, hazardous and/or toxic waste sites, high pressure gas lines, wildland fire hazard, high voltage power lines, airports, railroads, dam inundation areas, nearby mining/industrial activities, irrigation canals, wastewater treatment (sewage) systems and disposal, groundwater contamination
- (5) Other possible public health and safety issues that result from creation of the subdivision

c. Consideration – Evidence

In making its decision to approve, conditionally approve, or deny a proposed subdivision, the BCC may consider and weigh the following, as applicable:

- i. The subdivision application and preliminary plat;
- ii. The environmental assessment;
- iii. The summary of probable impacts;
- iv. Subdivider's expressed preference for mitigation;
- v. An officially adopted growth policy, which shall be considered as one factor and shall not be the sole basis for any decision;
- vi. Comments, credible evidence and discussions at the public hearing(s);
- vii. Planning Department's staff report and recommendation;
- viii. Planning Board's comments; and
- ix. Any additional information authorized by law.

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d. Water and Sanitation - Special Rules

- i. Water and sanitation information provided during the application review process, including public comment, may be used as a basis for a conditional approval or denial of a subdivision only if the BCC finds that the water and sanitation information in application does not comply with previously adopted subdivision, zoning, floodplain, environmental health or other regulations related to water and sanitation.
- ii. For a proposed subdivision that will create one or more parcels containing less than twenty (20) acres, the subdivider shall obtain approval by DEQ prior to final plat approval. This approval applies to the development of lots at the time of the approval and is no guarantee that a source of water or a location for a wastewater treatment system will be available when the lots are actually developed.
- iii. For a proposed subdivision that will create one or more parcels containing twenty (20) acres or more, prior to final plat approval the subdivider shall demonstrate that there is an adequate water source and at least one area for a septic system and a replacement drain field for each lot. This demonstration to the local reviewing authority is to evaluate the ability to develop lots at the platting stage and is no guarantee that a source of water or a location for a wastewater treatment system will be available when the lots are actually developed.
- iv. The BCC shall collect public comments submitted regarding water and sanitation information at its hearing or meeting and shall make any comments submitted or a summary of the comments submitted available to the subdivider within thirty (30) calendar days after conditional approval or approval of the subdivision application and preliminary plat.
- v. The subdivider shall, as part of the subdivider's application for sanitation approval, forward the comments or the summary provided by the BCC to the:
 - A. Reviewing authority provided in Montana Code Annotated, Title 76, chapter 4, for subdivisions that will create one or more parcels containing less than twenty (20) acres; and
 - B. RCEH for proposed subdivisions that will create one or more parcels containing twenty (20) acres or more and less than one hundred sixty (160) acres.

e. Documentation of BCC Decision

- i. In rendering its decision to approve, conditionally approve, or deny the proposed subdivision, the BCC shall issue written findings of fact that discuss and weigh the proposed subdivision's compliance with the preceding subsections.
- ii. When the BCC approves, denies, or conditionally approves the proposed subdivision, it shall send the subdivider a signed preliminary plat decision, with the appropriate signature. The preliminary plat decision shall:

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- A. Contain information regarding the appeal process for the denial or imposition of conditions;
 - B. Identify the regulations and statutes that are used in reaching the decision to approve, deny, or impose conditions and explain how they apply to the decision;
 - C. Provide the facts and conclusions that the BCC relied upon in making its decision and reference documents, testimony, or other materials that form the basis of the decision;
 - D. Provide the conditions that apply to the preliminary plat approval and that must be satisfied before the final plat may be approved; and
 - E. Set forth the time limit for approval, pursuant to subsection (f) below.
- f. Subdivision Application and Preliminary Plat Approval Period
- i. Upon approval or conditional approval of the preliminary plat, the BCC shall provide the subdivider with a dated and signed statement of approval. The approval shall be in force for eighteen (18) months, unless a preliminary phasing plan and schedule has been approved as part of the preliminary plat approval.
 - ii. The BCC may, at its discretion and at the written request of the subdivider, extend its approval for a period of one additional year. To be given consideration for an extension of the preliminary plat approval period, the subdivider must submit a letter explaining the reasons for requesting an extension. The request for an extension of the preliminary plat approval period must be submitted at least thirty (30) calendar-days prior to the expiration of the preliminary plat approval. The BCC shall evaluate the request for extension against the following points and act upon it at a public meeting before the approval expires:
 - A. Circumstances governing the timing of final plat review have changed beyond the control of the subdivider. All such circumstances shall be listed and a statement must be made as to how the new deadline can be met;
 - B. The subdivider certifies the findings of fact regarding the primary review criteria will still be valid if the extension is granted;
 - C. The subdivider certifies that no significant changes in the area of the subdivision have occurred or are expected to occur within the extension period prior to final plat review that would change the evaluation of the proposal; and
 - D. Planning and provision for public facilities and services in the area of the subdivision will not be disrupted by the extension of the deadline.
 - iii. Except per Section 3-2-8(f)(iv), after the application and preliminary plat are approved, the BCC may not impose any additional conditions as a prerequisite to final plat approval

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unless the preliminary plat approval expires, at which time a new application shall be required.

iv. Phasing

The subdivider, as part of the preliminary plat application, may propose to delineate on the preliminary plat two or more final plat filing phases and establish the schedule of the phased final plat review. Final plats of major subdivisions approved for phased development shall be filed sequentially in accordance with the preliminary plat approval. By submitting a phasing proposal, the subdivider consents to allow the BCC to impose additional conditions to address any critical public health and safety issues that exist at the time that each phase is brought before the BCC for final plat review of the final plat of each phase at a public meeting before the preliminary plat approval for each phase expires.

- A. Each phase must be fully capable of functioning with all the required improvements in place in the event the future phases are not completed or completed at a much later time.
 - B. A phasing plan must be submitted and must include the following:
 - (1) A plat delineating each phase and a general time frame for each phase.
 - (2) A required improvements phasing plan showing which improvements will be completed with each phase.
 - C. If a major subdivision application contains a specific phasing plan complete with time lines, such phasing plan shall be binding, unless specific changes are requested in writing and approved by the BCC, pursuant to the procedures in Section 3-4-1.
- v. The BCC may withdraw approval or conditional approval of an application and preliminary plat if it determines that information provided by the subdivider, and upon which the approval or conditional approval was based, is inaccurate.

3-2-9. Amended Applications

- a. If the subdivider changes the subdivision application or preliminary plat after the Planning Department makes a determination of sufficiency pursuant to Section 3-1-6, but before the public hearing, the subdivider shall submit the amended application to the Planning Department for review.
 - i. Within five (5) working-days of receiving the amended application or preliminary plat, the Planning Department shall determine whether the changes to the subdivision application or preliminary plat are material, as determined in subsection (d) below.

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- ii. The sixty (60)-working-day review period is suspended while the Planning Department considers whether the changes to the subdivision application or preliminary plat are material.
 - iii. If the Planning Department determines the changes are not material, the sixty (60)-working-day review period resumes when the Planning Department mails notice of the decision to the subdivider.
 - iv. If the Planning Department determines the changes are material, the Planning Department shall require the subdivider to resubmit the application as a new subdivision application for element review and proceed with the sixty (60)-working-day review period upon certification from the Planning Department that the resubmitted application is sufficient for review. Additional fees for the application submittal shall apply.
- b. If the subdivider changes the subdivision application or preliminary plat after the BCC hearing but before the decision on the subdivision application and preliminary plat, the subdivider shall submit the amended application or preliminary plat to the Planning Department for review.
- i. Within five (5) working-days of receiving the amended application or preliminary plat, the Planning Department shall determine whether the changes to the subdivision application or preliminary plat are material pursuant to subsection (d) below.
 - ii. The sixty (60)-working-day review period is suspended while the Planning Department considers whether the changes to the subdivision application or preliminary plat are material.
 - iii. If the Planning Department determines the changes are not material, the sixty (60)-working-day review period resumes when the Planning Department mails notice of the decision to the subdivider.
 - iv. If the Planning Department determines the changes are material, the Planning Department shall either:
 - A. Require the subdivider to begin the subdivision review process again, starting with the element review, and require payment of a new fee; or
 - B. Schedule a new public hearing to take comment on the amended application or preliminary plat. Notice of the Planning Department's determination to schedule a new public hearing shall be provided as set forth in Section 3-2-4. A supplemental staff report shall be prepared to address the changes to the original application.
 - v. If a new public hearing is held pursuant to subsection (b)(iv)(B) above, the 60-working-day review period is suspended for the time period between notice of the Planning Department's determination and ten (10) working-days after the date of the second BCC hearing.

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- c. By making changes to a pending subdivision application or preliminary plat, the subdivider consents to suspension of the review period as provided in subsections (a)(ii) and (b)(ii).
- d. The following changes, although not an exhaustive list, may be considered material:
 - i. Configuration or number of lots;
 - ii. Road layout;
 - iii. Water and/or wastewater treatment system proposals;
 - iv. Configuration of park land or open spaces;
 - v. Easement provisions; or
 - vi. Designated access.
- e. A subdivider whose subdivision application or preliminary plat has been deemed materially changed by the Planning Department may appeal the Planning Department's decision to the BCC by written notice within ten (10) working-days of the date of the Planning Department's decision. The subdivider may request a hearing, and may submit additional evidence to show that the changes to the preliminary plat are not material.
 - i. The sixty (60)-working-day review period is suspended until the BCC decision on the appeal is made. A decision on the appeal is required within thirty (30) working-days of receipt of the written notice.
 - ii. If the BCC concludes that the evidence and information demonstrate that the changes to the subdivision application or preliminary plat are material, the BCC shall determine whether the subdivision application should be resubmitted or scheduled for rehearing in front of the BCC pursuant to subsections (b)(iv)(A) or (B).
 - iii. If the BCC concludes that the evidence and information demonstrate that the changes to the subdivision application or preliminary plat are *not* material, the sixty (60)-working-day review period resumes as of the date of the decision.
 - iv. By appealing the decision of the Planning Department, the subdivider agrees to suspension of the sixty (60)-working-day review period provided in subsection (i) above.

3-3. FIRST MINOR SUBDIVISIONS - REVIEW PROCEDURES

Subdivisions containing five or fewer parcels shall be reviewed as set forth in this section.

Subsequent minor subdivisions shall be reviewed pursuant to Section 3-2 and first minor subdivisions shall be reviewed pursuant to Section 3-3. (See Chapter 2 for definitions of subdivision, first minor subdivision, and subdivision, second minor subdivision.)

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3-3-1. Subdivision Application and Preliminary Plat Submittal

- a. The subdivider shall submit to the Planning Department the subdivision application containing the materials identified in Section 3-1-5 and in the pre-application meeting, and
- b. Sufficient documentary evidence from the public records demonstrating that the subdivision will be the first minor subdivision from a tract of record.

3-3-2. Exceptions

The following do not apply to first minor subdivisions:

- a. Preparation of an environmental assessment;
- b. Parkland dedication;
- c. Public hearing requirements; and
- d. Review of the subdivision application for the impact on the primary subdivision review criteria, *if* the subdivision is proposed in a jurisdictional area that has adopted zoning regulations that address impacts on the primary review criteria specified in 76-3-608(3)(a), MCA.

3-3-3. Time Period for Approval, Conditional Approval, or Denial

- a. The thirty-five (35)-working-day period for a subdivision application begins when the Planning Department notifies the subdivider or the subdivider's agent in writing that the application contains sufficient information to conduct the review. Within thirty-five (35) working-days, the BCC shall approve, conditionally approve, or deny the proposed subdivision in accordance with Section 3-3-7 of these regulations, unless the subdivider and the Planning Department agree to an extension or suspension of the review period, not to exceed one year.

- b. Public Agency and Utility Review

Review and comment by public agencies or utilities may not delay the BCC's action on the subdivision application beyond the thirty-five (35)-working-day review period. If, during the review of the application, the Planning Department or the Planning Board contacts a public utility, agency, or other entity that was not included on the list provided during the pre-application meeting, the Planning Department shall notify the subdivider of the contact and the timeframe for response. Also refer to Sections 3-1-4(c)(ii) and 3-3-4(b)(iv).

3-3-4. Public Meeting – Notice

- a. Meeting

After the subdivision application has been deemed to have all the required elements and to contain sufficient information for review, the BCC shall hold a public meeting on the subdivision application.

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b. Notice

- i. Notice of the public meeting shall be noticed on the published agenda of the BCC a minimum of forty-eight (48) hours prior to the meeting.
- ii. Notice of the public meeting shall be sent by regular mail to the subdivider, each adjoining landowner to the subject property, and each purchaser under contract for deed of property immediately adjoining the subject property at least fifteen (15) calendar-days prior to the date of the meeting. The notice shall be prepared and mailed by the Planning Department. The failure of any person required by this section to receive the notice shall not invalidate or otherwise have any effect upon a public meeting or action taken on the application.
- iii. Notice shall be posted in at least one conspicuous place on the site of the proposed subdivision at least fifteen (15) calendar-days prior to the date of the meeting. The notice shall be prepared by the Planning Department and posted by the subdivider. The subdivider shall sign an affidavit stating compliance with this provision. The destruction or removal of the posting required by this section shall not invalidate or otherwise have any effect upon a public hearing or action taken on the application.
- iv. The Planning Department shall prepare and send a summary of the subdivision application, a reduced copy of the preliminary plat and the date, time and location of the public meeting by regular mail at least fifteen (15) calendar-days prior to the date of the meeting to each affected agency, including, but not limited to state and federal agencies, school and fire districts, irrigation districts, and utility companies. Also refer to Sections 3-1-4(c)(ii) and 3-3-3(b).
- v. The Planning Department shall send one copy of the application to the local unit of government at least fifteen (15) calendar-days prior to the date of the meeting for review and comment when the project lies within one (1) mile of a third class city, within two (2) miles of a second class city or within three (3) miles of a first class city.
- vi. The Planning Department shall send one copy of the application to the Ravalli County Planning Board at least fifteen (15) calendar-days prior to the date of the meeting for review and comment. Planning Board may delegate its role to planning staff to provide advice to the BCC on minor subdivisions.
- vii. The Planning Department shall publish a staff report based on the requirements in Section 3-3-7. The staff report shall be made available to the public and Planning Board and sent to the applicant, the applicant's agent, and the BCC no later than five (5) working-days prior to the public meeting.

3-3-5. Subdivider's Preference for Mitigation

Refer to Section 3-2-5 for requirements and procedures.

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3-3-6. Public Meeting –Procedure

a. The public meeting agenda shall be held according to the following format:

- i. Disclosure of actual, possible, and perceived conflicts of interest
- ii. Staff report on the proposal
- iii. Open public comment on the proposal, starting with the subdivider and followed by other members of the public
- iv. Close public comment part of the meeting
- v. Receipt of advice from Planning Board

The BCC will receive any written advice submitted by the Planning Board and invite the Planning Board to discuss its analysis of the subdivision proposal, including any variances, and information received in the meeting.

- vi. BCC deliberation on the proposal, starting with variances if there are any
 - A. BCC discussion and questions (to Planning Board, proponents and opponents only as needed)
 - B. BCC action
 - (1) Review of the proposal against the decision and documentation requirements in Section 3-3-7
 - (2) Consultation with the subdivider as to the subdivider's expressed preference regarding mitigation for the impacts of the subdivision and/or variances
 - (3) BCC decision
 - Options:
 - Postpone decision; or
 - Approve with rationale; or
 - Approve with conditions and rationale; or
 - Deny with rationale

vii. Close the public meeting

3-3-7. BCC Decision and Documentation

Refer to Section 3-2-8 for requirements and procedures.

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3-3-8. Amended Applications

Refer to Section 3-2-9 for requirements and procedures, with the exception that the review period for first minor subdivisions shall be thirty-five (35) working-days.

3-4. ALL SUBDIVISIONS - FINAL PLAT APPLICATION AND REVIEW PROCEDURES

3-4-1. Amending Approved Preliminary Plats Before Final Plat Approval

- a. If the subdivider proposes to change the preliminary plat after the preliminary plat approval but before the final plat approval, the subdivider shall submit the proposed changes to the Planning Department for review.
 - i. Within five (5) working-days of receiving the proposed changes, the Planning Department shall determine whether the changes to the preliminary plat are material pursuant to subsection (b) below.
 - ii. If the Planning Department determines the changes are material, the Planning Department may require the subdivider to begin the subdivision review process again, starting with the pre-application meeting, and require payment of a new application fee.
 - iii. If the Planning Department determines the changes are not material, the Planning Department shall accept the changes and notify the subdivider and the BCC of its decision and the BCC shall approve of these changes in a public meeting for which notice have been given of non material changes to the final plat.
- b. The following changes, although not an exhaustive list, may be considered material:
 - i. Configuration or number of lots;
 - ii. Road layout;
 - iii. Water and/or wastewater treatment system proposals;
 - iv. Configuration of park land or open spaces;
 - v. Easement provisions;
 - vi. Covenants;
 - vii. Designated access; or
 - viii. Change to conditions of approval.
- c. A subdivider whose proposed changes to the preliminary plat have been deemed material by the Planning Department may appeal the Planning Department's decision to the BCC by written notice received within ten (10) working-days. The subdivider may request a hearing, and may submit additional evidence to show that the changes to the preliminary plat are not material.

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- d. If the subdivider and Planning Department determine that a condition of approval is illegal or impossible to comply with due to circumstances outside the subdivider's control, economic hardship notwithstanding, the condition may be reviewed by the BCC through a properly noticed public hearing in order to determine if the condition may be waived or amended.

3-4-2. Required Improvements Agreement; Guaranty

- a. As a condition of approval of the final plat for a subdivision or for a subdivision phase, the subdivider must have installed all required improvements or have entered into a subdivision improvements agreement guaranteeing the construction, installation, and maintenance of all required improvements [76-3-507, MCA]. No placement or construction of structures on the lots may occur until improvements related to public health and safety, such as roads or fire fighting facilities, have been installed and final engineering plans and road certifications submitted. A model subdivision improvements agreement and alternative methods of guaranteeing improvements, the procedures and requirements for securing an agreement, and suggested conditions for maintenance are provided in the Administrative Materials available at the Planning Department.
- b. If the subdivider chooses to enter into a subdivision improvements agreement, guaranteeing and securing the improvements through a bond, letter of credit, or other acceptable form of security, the following procedure shall apply:
- i. With the final plat submittal the subdivider shall provide a proposed subdivision improvements agreement that includes a complete list of remaining improvements and associated costs. To determine the cost of improvements, the subdivider shall submit three bids for the cost of installation of the improvements and calculate the amount of the guaranty by multiplying the highest bid by a minimum of 125%. Alternatively, in place of the three bids, the Commissioners may accept an Engineer's Estimate of the improvements. A higher percentage calculation may be required by the BCC depending on market conditions.
 - ii. During the BCC decision on the final plat per Section 3-4-4(c), the subdivider shall enter into an agreement with the BCC that includes the necessary improvements, costs, amount of the guaranty, and agreed upon security.
 - iii. When improvements are completed as required by the subdivision improvements agreement the subdivider shall provide a letter to the BCC indicating the required improvements have been installed, including a copy of the engineered plans, if applicable. The subdivider's consulting engineer, the subdivider's agent, or the subdivider, as applicable, shall certify that all improvements have been installed in conformance with the plans and specifications.
 - iv. The County engineer, consulting engineer designated by the BCC, or planning staff, as applicable, shall verify that improvements have been installed in conformance with the plans and specifications.

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- v. To release the guaranty, the subdivider shall submit a written request to the Planning Department from the individual or institution that provided the security. The request shall be considered by the BCC in a public meeting. Prior to the release of the guaranty, a copy of the plans and/or certifications, stamped by the project surveyor or engineer in accordance with their licensing provisions, shall be filed and recorded in the Clerk and Recorder's Office, when applicable, with reference to the final subdivision plat.

3-4-3. Final Plat Contents

The final plat submitted for approval shall conform to the preliminary plat as previously reviewed and approved by the BCC and must incorporate all required modifications and comply with all conditions imposed at the time of subdivision application and preliminary plat approval. The final plat and accompanying documents shall comply with the Montana Uniform Standards for Final Subdivision Plats. Final plats of subdivisions approved for phased development shall be filed sequentially in accordance with the approval, or in accordance with a revised phasing plan approved by the BCC, and in compliance with Section 3-2-8(f)(iv).

3-4-4. Final Plat Review

a. Final Plat Submittal

The final plat approval application form and all supplementary documents must be submitted to the Planning Department at least thirty (30) working days prior to the expiration of preliminary plat approval. All documents shall be the original copies. The submittal shall include, as applicable:

- i. A statement from the project surveyor or engineer outlining how each final plat requirement or condition of approval has been satisfied;
- ii. One paper and two mylar 18" x 24" or larger copies of the final plat, completed in accordance with the Uniform Standards for Final Subdivisions Plats (ARM 8.94.3003). (One paper copy may be submitted for the first proofing.) The final plat shall conform to the preliminary plat decision. The following features are required on the Final Plat:
 - A. Project name
 - B. Title block
 - C. Certificate of registered owner – notarized
 - D. Certificate of registered land surveyor with seal
 - E. Certificate of governing body approval
 - F. Signature block for Clerk and Recorder, preferably in lower right hand corner
 - G. Certificate of public dedication
 - H. Certificate of park cash-in-lieu payment
 - I. Other certifications as appropriate
 - J. North arrow
 - K. Graphic scale
 - L. Legal description
 - M. Property boundaries (bearings, lengths, curve data)
 - N. Pertinent section corners and subdivision corners
 - O. Names of adjoining subdivisions/certificates of survey
 - P. Monuments found
 - Q. Witness monuments

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- R. Acreage of subject parcel
- S. Curve data (radius, arc length, notation of non-tangent curves)
- T. Line data (lengths to tenths of a foot, angles/bearings to nearest minute)
- U. Lots and blocks designated by number (dimensions/acreage)
- V. Easements/rights of ways (location, width, purpose, ownership)
- W. Dedication for public use (boundaries, area, purpose)
- X. No-build/alteration zones
- Y. No-ingress/egress zones
- Z. Water resources (rivers, ponds, etc.)
- AA. Floodplains
- BB. Irrigation canals including diversion point(s), etc.
- CC. High-pressure gas lines
- DD. Existing and new roads (names, ownership, etc.)
- iii. The preliminary plat decision;
- iv. Any variance decisions;
- v. Copies of extensions of the preliminary plat approval period;
- vi. The final plat review fee;
- vii. Consent to Plat form, including notarized signatures of all owners of interest, if the developer is not the underlying title holder;
- viii. A Title Report or updated Abstract dated no less than one (1) year prior to the date of submittal;
- ix. The DEQ Certificate of Subdivision Approval or RCEH approval;
- x. Copy of the General Discharge Permit for Stormwater Associated with Construction Activity from the DEQ;
- xi. The approved Ground Disturbance and Noxious Weed Management Plan for the control of noxious weeds and the re-vegetation of all soils disturbed within the subdivision;
- xii. A copy of the appraisal report, per Section 6-1-7, dated no less than six (6) months from the date of the submittal, for calculating the cash-in-lieu of parkland dedication and a receipt from the County Treasurer's Office for the payment of cash-in-lieu of parkland dedication;
- xiii. Road and driveway approach and encroachment permits;
- xiv. Evidence of a Ravalli County-approved road name petition(s) for each new road;
- xv. Engineering plans and specifications for all central water and sewer systems and any other infrastructure improvements requiring engineered plans;
- xvi. Final Road Plans and Grading and Storm Water Drainage Plan;
- xvii. Road certification(s);
- xviii. Utility availability certification(s);
- xix. Road/common access maintenance agreement(s), signed and notarized;
- xx. Signed and notarized master irrigation plan, or if one is not required, written and notarized documentation showing how the water rights are to be divided or written and notarized documentation indicating that the water rights will be removed from the property;
- xxi. A notarized statement from each downstream water user specifically authorizing any alteration, such as installation of culverts, bridges, etc., or relocation of an irrigation ditch;
- xxii. Protective covenants to be filed with the final plat that are signed and notarized;
- xxiii. Copies of permits issued by the Bitterroot Conservation District or the US Army Corps of Engineers when construction occurs on environmentally sensitive features;

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- xxiv. A copy of the letter sent to the appropriate school district(s) stating the applicant has made or is not willing to make a voluntary contribution to the school district to mitigate impacts of the subdivision on the school district that are not related to capital facilities;
 - xxv. Signed and notarized homeowner association documents, including bylaws, covenants, and/or declarations;
 - xxvi. Evidence that improvements have been made in accordance with the conditions of approval and requirements of final plat approval and certified by the subdivider, Professional Engineer, or contractor, as may be appropriate and required. A Professional Engineer's certification shall be required in any instance where engineered plans are required for the improvement. Alternatively, an improvements agreement and guaranty shall be required. (Refer to Section 3-4-2.)
- b. Review by Planning Department
- i. The Planning Department shall review the final plat to ascertain that all conditions and requirements for final plat approval have been met. The Planning Department will not accept, begin processing, nor schedule any actions on a final plat submittal until a complete application, fee, and copies of the final plat have been received. Final plat applications will not be considered complete by the Planning Department until all conditions of preliminary approval have been satisfied.
 - ii. If the Planning Department determines that the final plat differs from the approved or conditionally approved preliminary plat, the applicant shall be required to submit an amended application pursuant to Section 3-4-1.
 - iii. The Planning Department may require that final subdivision plats be reviewed for errors and omissions in calculation or drafting by an examining land surveyor before recording with the Clerk and Recorder. When the survey data shown on the plat meets the conditions pursuant to these regulations, the examining surveyor shall certify the compliance in a printed or stamped signed certificate on the plat.
- c. Final Plat Approval by the BCC
- The BCC shall examine every final subdivision plat and shall approve it only if it conforms to the conditions of preliminary plat approval and to the terms of the MSPA and these regulations, or deny it pursuant to (ii) below.
- i. If the final plat is approved, the BCC shall certify its approval on the face of the final plat. When applicable, a certificate of the BCC expressly accepting any dedicated land, easements, or improvements will be filed with the final plat.
 - ii. If the final plat is denied, the BCC shall write a letter stating the reason for denial and forward a copy to the subdivider. The BCC will return the final plat to the subdivider within ten (10) working-days of the action. The subdivider may then make any necessary corrections and resubmit the final plat for approval.

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- d. The BCC may withdraw approval of a final plat if it determines that material information submitted by the subdivider is inaccurate.

3-4-5. Final Plat Filing

- a. After it is approved, the final plat may not be altered in any manner except as provided in Section 3-4-6. The County Clerk and Recorder may not accept any plat for filing that does not bear the BCC's approval in proper form or that has been altered. The Clerk and Recorder may file an approved plat only if it is accompanied by the documents specified in the Montana Uniform Standards for Monumentation, and Final Subdivision Plats, contained in the ARMs. Prior to filing the final plat, the owner of record shall pay all property taxes that have been assessed and levied on the land. Filing fees will be assessed by the County Clerk and Recorder's Office prior to filing the final plat and associated documents.
- b. The following final plat application elements are required to be filed:
- i. One paper and two mylar copies of the final plat that are 18" x 24" or larger, completed in accordance with the Uniform Standards for Final Subdivisions Plats set forth in Appendix A;
 - ii. The preliminary plat decision;
 - iii. Any variance decisions;
 - iv. Consent to Plat form, including notarized signatures of all owners of interest, if the developer is not the underlying title holder;
 - v. The DEQ Certificate of Subdivision Approval or RCEH approval;
 - vi. The approved Noxious Weed Control Plan for the re-vegetation of soils disturbed during road construction;
 - vii. Road certification(s);
 - viii. Utility availability certification(s);
 - ix. Road/common access maintenance agreement(s), signed and notarized;
 - x. Signed and notarized master irrigation plan, or if one is not required, written and notarized documentation showing how the water rights are to be divided or written and notarized documentation indicating that the water rights will be removed from the property;
 - xi. A signed statement from each downstream water user specifically authorizing any alteration, such as installation of culverts, bridges, etc., or relocation of an irrigation ditch;
 - xii. Protective covenants to be filed with the final plat that are signed and notarized;
 - xiii. Signed and notarized homeowner association documents, including bylaws, covenants, and/or declarations;
 - xiv. Required improvements agreement and guaranty. (Refer to Section 3-4-2.)

3-4-6. Amending Filed Plats

- a. Errors and Corrections
- i. From time to time, errors may be discovered on the face of a recorded plat. It is the intent of Ravalli County to establish reasonable standards and procedures to correct such errors

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in order to protect the interests of affected property owners. Errors may include but are not limited to:

- A. Typographical and spelling errors or transpositions;
 - B. Incorrect seals;
 - C. Incorrect dates;
 - D. Monumentation incorrectly noted, drawn, or missing;
 - E. Incorrect or missing interior bearing(s) and/or dimensions(s) on the drawing;
 - F. Missing or incorrectly displayed arrows or symbols;
 - G. Street name changes;
 - H. Title of plat already in use;
 - I. Additions to or deletions from the legal description of dedicatory language that are not typographical in nature;
 - J. Incorrect certificates or signatures;
 - K. Missing certificates, seals, or signature blocks; and
 - L. Other items of a similar nature as determined by the Planning Department.
- ii. Errors shall be reviewed by the Planning Department. Appeal of the Planning Department's decision is to the BCC. An Affidavit of Correction is to be prepared and signed by a Professional Land Surveyor on forms approved by the County Attorney and is to be recorded with the Clerk and Recorder.
- iii. The property owners petitioning for the amendment or correction of a filed subdivision plat shall pay all related direct costs incurred by Ravalli County, including filing fees.
- b. **Material Modifications**
- A material modification is any modification to a filed plat that is not considered an error and does not constitute a subdivision.
- i. An application for a material modification shall include all documentation necessary to describe the modification and the reasons for the request. The BCC shall consider a request for a material modification in a properly noticed public hearing. The BCC may not approve a modification that will place a lot in non-conformance with the standards contained in Chapter 5 of these regulations. A material modification cannot also place a lot in nonconformance with local zoning regulations unless the required procedures for a zoning variance are completed and the variance approved. The governing body shall not approve a material modification without the written consent of the owners and lienholders of all lots which will be modified by the proposed amendment.
- ii. The property owners petitioning for material modification of a filed subdivision plat shall pay all related direct costs incurred by Ravalli County, including filing fees. A consent to plat form signed by all parties with an interest in the property shall be filed with any material modification.
- iii. The final amended plat submitted for approval must comply with the requirements for final subdivision plats under the Uniform Standards for Filing Final Plats.

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3-5. SUBDIVISIONS CREATED BY RENT OR LEASE

3-5-1. Subdivision Application and Preliminary Plan Submittal and Review

Subdivisions that will provide multiple spaces for recreational camping vehicles or mobile homes and other subdivisions for lease or rent are exempt from the surveying and filing requirements of the MSPA. However, these subdivisions must be submitted for review and approved by the BCC before portions of the subdivision may be rented or leased or alteration of the land to enable rental or lease of portions thereof.

a. Submittal

The subdivider shall submit a completed application in accordance with Section 3-1-5 and a plan of the proposed development, conforming to the requirements for preliminary plats and the applicable design standards in Chapter 5.

b. Review

The procedure used to review subdivisions for rent or lease will depend on the number of spaces/units within the proposed subdivision. Proposed subdivisions containing six or more spaces/units must be reviewed pursuant to Sections 3-1 and 3-2 of these regulations. Proposed subdivisions containing five or fewer spaces must be reviewed pursuant to Section 3-1 and 3-3 of these regulations.

3-5-2. Exception

- a. When an accessory building(s), such as a barn or shop, will have sanitary facilities that would not alter the parcel to enable rental or lease of a portion thereof, the proposal would not be considered under this section as a subdivision created by rent or lease, but is subject to administrative review and approval by the Planning Department. (Refer to the Administrative Materials at the Planning Department for the Wastewater Exception Application.)

b. Review criteria

The following review criteria, although not an exhaustive list, may be considered by the Planning Department in their review of these proposals:

- i. Proximity of existing services and facilities
- ii. Extent and nature of proposed plumbing
- iii. Proposed floor plan
- iv. Previous use of exemptions
- v. Potential for use as a rental
- vi. Proposed use(s) of accessory building(s)

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3-5-3. Improvements

The subdivider shall install all required improvements before renting or leasing, or otherwise occupying, any portion of the subdivision. All required improvements shall be inspected in order to ensure conformance with the approved construction plans and specifications.

3-5-4. Final Plan Review

In lieu of filing a final plat, the subdivider shall submit a final plan to the Planning Department complying with the requirements of Final Plats in Section 3-4. The final plan will be reviewed to ensure that it conforms to the approved preliminary plan. The approved final plan shall be maintained in the Planning Department.

3-5-5. Department of Public Health and Human Services License

If a subdivision that will provide multiple spaces for recreational camping vehicles or mobile homes is also a "trailer court," "work camp," "youth camp," or "campground" as those terms are defined in section 50-52-101, MCA, the BCC will not grant final plan approval of the subdivision until the subdivider obtains a license for the facility from the Montana Department of Public Health and Human Services under Title 50, Chapter 52, MCA and approval under Title 76, Chapter 4, MCA from DEQ.

3-6. REVOCATION OF AGRICULTURAL COVENANTS

If a property owner wants to remove an agricultural covenant on a parcel that was created through a subdivision exemption as allowed by 76-3-207 MCA, or a prior similar statute, the owner shall comply with Chapters 1, 2, 3, 5 and 8 as they pertain to first minor subdivisions prior to filing a written agricultural covenant revocation with a Certificate of Survey, upon which the revocation is recited.

3-7. CONDOMINIUMS

3-7-1. Procedures

Unless exempted by section 76-3-203, MCA, all condominium developments are subdivisions subject to the terms of the MSPA as follows:

- a. If no division of land will be created by a condominium subdivision, the subdivision must be reviewed under the procedures contained in Section 3-5, Subdivisions Created by Rent or Lease, with the following exception: final approval will not be given until the subdivider has either installed all required improvements, or has entered into a subdivision improvements agreement pursuant to Section 3-4-2. Required Improvements Agreement; Guaranty.
- b. If a proposed condominium development will involve a division of land, the subdivision must be reviewed under the procedures contained in Sections 3-1, 3-2, and 3-4 and obtain DEQ approval.

3-7-2. Standards

Condominium developments must comply with applicable standards contained in Chapter 5.

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3-7-3. Unit Ownership Act

Condominium developments must comply with all provisions of the Unit Ownership Act in Title 70, Chapter 23, MCA.

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CHAPTER 4. DIVISIONS OF LAND EXEMPT FROM SUBDIVISION REVIEW

4-1. PURPOSE

The MSPA provides that certain divisions of land, which would otherwise constitute subdivisions, are exempt from local subdivision review and approval, unless the use of the exemption is an attempt to evade the MSPA. The exemptions are found in Part 2 of Title 76, Chapter 3, MCA. These regulations address the more commonly used exemptions.

4-2. GENERAL CRITERIA TO DETERMINE WHETHER A PROPOSAL IS AN ATTEMPT TO EVADE THE MSPA

The governing body and its agents, when determining whether an exemption described in Sections 4-3, 4-4, or 4-5, is claimed for the purpose of evading the MSPA, shall consider all of the surrounding circumstances, including the following:

- a. The nature of the claimant's business,
- b. The prior history of the particular tract in question,
- c. The proposed configuration of the tracts if the proposed exempt transaction is completed,
- d. Any pattern of exempt transactions that will result in the equivalent of a subdivision without local government review, and
- e. The rebuttable presumptions for specific exemptions as outlined in the following sections of this chapter. A rebuttable presumption refers to identifiable conditions, that, when they exist require further consideration to determine whether or not an exemption request is an evasion of the MSPA.

4-3. DIVISIONS OF LAND WHICH MAY BE ENTIRELY EXEMPT FROM THE REQUIREMENTS OF THESE REGULATIONS AND THE MONTANA SUBDIVISION AND PLATTING ACT [76-3-201, MCA]

The divisions of land described in this section shall be examined to determine whether or not the requirements of the MSPA and these regulations apply to the division. The requirements of these regulations and the MSPA do not apply unless the method of disposition is adopted for the purpose of evading these regulations or the MSPA, or as otherwise specifically provided, when:

- a. A division of land is created by order of any court of record in this State or by operation of law or that, in the absence of agreement between the parties to the sale, could be created by an order of any court in the state pursuant to the law of eminent domain, Title 70, Chapter 30. Before a court of record orders a division of land, the court shall notify the Planning Department as the designated agent of the BCC of the pending division and allow the governing body through its designated agent the Planning Department, to present written comments on the subdivision. [76-3-201(1)(a) and 76-3-201(2) MCA]
- b. A division of land is created to provide security for mortgages, liens, or trust indentures for the purpose of construction, improvements to the land being divided, or refinancing purposes.

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i. This exemption applies:

- A. To a division of land of any size;
- B. If the land that is divided is only conveyed to the financial or lending institution to which the mortgage, lien, or trust indenture was given, or to a purchaser upon foreclosure of the mortgage, lien, or trust indenture. (Note: No parcel is created unless and until foreclosure.) A transfer of the divided land, by the owner of the property at the time the land was divided, to any party other than those identified in the preceding sentence subjects the division of land to the requirements of the MSPA and these regulations and requires subdivision review; and
- C. To a parcel that is created to provide security under this subsection. The remainder of the tract of land, if applicable, is subject to the provisions of the MSPA and these regulations and requires subdivision review.

ii. Statement of Intent

Under policies by many lending institutions and federal home loan guaranty programs, a landowner who is buying a tract with financing or through a contract for deed is required to hold title to the specific site on which the residence will be built. The intended purpose of this exemption is to allow a person who is buying a tract using financing or contract for deed to segregate a smaller parcel from the tract for security for financing construction of a home on the property.

iii. Use of Exemption

- A. This exemption is not available to simply create a parcel without review by claiming that the parcel will be used for security to finance construction of a home or other structure on the proposed lot.
- B. This exemption may not be properly invoked unless (1) the claimant is purchasing a larger tract through financing or a contract for deed (and thus does not hold title) and (2) a lending institution requires the landowner to hold title to a small parcel of the tract because the smaller tract is required as security for a building construction loan.

iv. Required Materials

When this exemption is to be used, the landowner must submit the following items with the submittal to the Planning Department:

- A. A statement of how many interests within the original tract will be created by use of the exemption;
- B. A statement explaining who will have title to and possession of the balance of the original parcel after title to the exempted interest is conveyed; and

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- C. A signed statement from a lending institution that the creation of the interest is necessary to secure a loan.

v. Rebuttable Presumptions

The use of this exemption is presumed to have been adopted for the purpose of evading the Act if:

- A. It will create more than one new building site;
 - B. The financing is not for construction or improvements on the exempted parcel, or for re-financing;
 - C. The person named in the "statement explaining who would have possession of the remainder parcel if title to the exempted parcel is conveyed" is anyone other than the borrower of funds for construction;
 - D. Title to the exempted interest will not be initially obtained by the lending institution if foreclosure occurs;
 - E. There exists a prior agreement to default or a prior agreement to purchase only a portion of the original tract;
 - F. It appears that the principal reason the interest is being created is to create a building site and using the interest to secure a loan is a secondary purpose; or
 - G. The division of land is created for the purpose of conveyance to any entity other than the financial or lending institution to which the mortgage, lien or trust indenture was given or to a purchaser upon foreclosure of the mortgage, lien or trust indenture.
- c. A division of land creates an interest in oil, gas, minerals, or water that is severed from the surface ownership of real property;
 - d. A division of land creates cemetery lots;
 - e. A division of land is created by the reservation of a life estate;
 - f. A division of land is created by lease or rental for farming and agricultural purposes;
 - g. A division of land is in a location over which the state does not have jurisdiction; or
 - h. A division of land is created for public rights-of-way or public utility sites. A subsequent change in the use of the land to a residential, commercial, or industrial use is subject to the requirements of the MSPA and these regulations and requires subdivision review and DEQ sanitation review.

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4-4. DIVISIONS OF LAND WHICH MAY BE EXEMPT FROM REVIEW AND SURVEYING

- a. Condominiums, which are generally subject to review as subdivisions, may be exempt from review, provided they are constructed on land subdivided in compliance with these regulations and the MSPA, or are located on lots within incorporated cities and towns, and:
 - i. The approval of the original subdivision of land expressly contemplated the construction of the condominiums and 76-3-621, MCA, is complied with; or
 - ii. The condominium proposal is in conformance with applicable zoning regulations, when zoning regulations are in effect.
 - iii. The term "expressly contemplated" in these regulations shall mean that the approximate location of buildings and the maximum number of buildings and units were provided with the subdivision application.
- b. Subdivisions created by rent or lease are exempt from the surveying and filing requirements of the MSPA and these regulations, but must be submitted for review and approved by the BCC as a subdivision under Section 3-5 before portions may be rented or leased, unless the following circumstances apply:
 - i. When the land upon which an improvement is situated has been subdivided in compliance with the MSPA, the sale, rent, lease or other conveyance of one or more parts of a building, structure, or other improvement situated on one or more parcels of land is not a division of land and is not subject to the MSPA or these regulations; or
 - ii. The sale, rent, lease, or other conveyance of one or more parts of a building, structure or other improvement, whether existing or proposed, is not a division of land and is not subject to the requirements of the MSPA or these regulations.
 - iii. For new structurally connected additions proposed to meet subsections i and ii above that require extension of or additional wastewater treatment systems, an administrative (wastewater exception) review is required in accordance with Section 3-5-2.
- c. A division of land created by lease or rental of contiguous airport related land owned by a city, county, the state, or a municipal or regional airport authority is not subject to the MSPA or these regulations, provided that the lease or rental is for onsite weather or air navigation facilities, the manufacture, maintenance, and storage of aircraft, or air carrier related activities.
- d. A division of state-owned land is not subject to the MSPA or these regulations unless the division creates a second or subsequent parcel from a single tract for sale, rent, or lease for residential purposes after July 1, 1974.
- e. A division of land in a deed, contract, lease, or other conveyance, which was executed prior to July 1, 1974.
- f. Instruments of transfer of land that is acquired for State highways may refer by parcel and project number to State highway plans that have been recorded in compliance with 60-2-209, MCA, and

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are exempted from the surveying and platting requirements of the MSPA and these regulations. A survey or plat for the recordation of an instrument transferring title to a remainder that was created when the state obtained property for a highway right-of-way is not required. [44 A.G. Op. 25 (1992)]. If such parcels are not shown on highway plans of record, instruments of transfer of such parcels shall be accompanied by and refer to appropriate certificates of survey and plats when presented for recording.

4-5. DIVISIONS OF LAND WHICH MAY BE EXEMPT FROM REVIEW BUT SUBJECT TO SURVEY REQUIREMENTS AND ZONING REGULATIONS

Unless the method of disposition is adopted for the purpose of evading these regulations or the MSPA, the following divisions of land are not subdivisions under these regulations and the MSPA, but are subject to the surveying requirements of 76-3-401, MCA, and zoning regulations adopted under Title 76 chapter 2. A division of land may not be made under this section unless the County Treasurer has certified that all real property taxes and special assessments assessed and levied on the land to be divided have been paid. The Clerk and Recorder shall notify the Planning Department if a land division described in this section or 76-3-207(1), MCA, is submitted to the Clerk and Recorder prior to the survey being submitted to the Planning Department for evasion review.

4-5-1. Relocation of Common Boundary [76-3-207(1)(a), MCA]

a. Statement of Intent

The intended purpose of this exemption is to allow a change in the location or the elimination of a boundary line between adjoining properties outside of a platted subdivision and to allow a one-time transfer of a tract to effect that relocation or elimination without subdivision review.

b. Required Information

Certificates of survey claiming this exemption must clearly distinguish between the existing boundary location and, in case of a relocation, the new boundary. This must be accomplished by representing the existing boundary with a dashed line and the new boundary, if applicable, with a solid line. The appropriate certification set forth in ARM 24.183.1104 (1)(f) must be included on the certificate of survey.

c. Use of Exemption

The proper use of the exemption for relocating common boundary lines is to adjust the location of a boundary between adjoining parcels of land outside of a platted subdivision, without creating an additional parcel. The exemption may not be used if the division of land would result in the permanent creation of one or more additional parcels of land.

d. Rebuttable Presumptions

The use of this exemption is presumed to have been adopted for the purpose of evading the MSPA if:

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- i. The reviewing agent determines that the documentation submitted according to this section does not support the stated reason for relocation;
- ii. The proposed relocation creates a parcel of less than 160 acres which, prior to the relocation included more than 160 acres;
- iii. The proposed relocation creates a new buildable tract from one that did not have a practical building site;
- iv. The proposed relocation significantly changes the area between the existing and proposed parcel sizes; or
- v. The proposed relocation would cause significant impacts to the criteria listed in Section 3-2-8 that would likely lead to imposition of significant conditions of approval, or denial, of an equivalent subdivision application.

4-5-2. A Gift or Sale to a Member of the Immediate Family [76-3-207(1)(b), MCA]

a. Statement of Intent

The intent of this exemption is to allow a landowner to convey one parcel outside of a platted subdivision to each member of his or her immediate family, without local subdivision review. A single parcel may be conveyed to each member of the immediate family under this exemption in each county where the landowner owns property. This exemption may be used only by grantors who are natural persons and not by non-corporal legal entities such as corporations, partnerships, and trusts.

b. Required Information

A certificate of survey (or recording of an instrument of conveyance) that uses this exemption to create a parcel for conveyance to a family member must show the name of the grantee, relationship to the landowner, the parcel to be conveyed under this exemption, and the landowner's certification of compliance [ARM 24.183.1104(1)(f)]. The landowner must provide evidence of the familial relationship between the proposed grantor and grantee.

c. Use of Exemption

One conveyance of a parcel to each member of the landowner's immediate family is eligible for exemption from subdivision review under the MSPA and these regulations. However, the use of the exemption may not create more than one new parcel per eligible family member.

d. Rebuttable Presumptions

- i. Any proposed use of the family gift or sale exemption to divide a tract that was previously created through the use of an exemption will be presumed to be adopted for purposes of evading the MSPA.

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- ii. The use of the family gift or sale exemption to divide tracts that were created as part of an overall development plan with such characteristics as common roads, utility easements, restrictive covenants, open space, or common marketing or promotional plan raises a rebuttable presumption that the use of the exemption is adopted for purposes of evading the MSPA.
 - iii. A transfer of a parcel of land by one family member to another, by quitclaim deed, followed by an attempted use of this exemption will result in the presumption the method of disposition is adopted for the purpose of evading the MSPA and these regulations.
 - iv. The use of the exemption to create more than one additional or remaining parcel of less than 160 acres in size is presumed to be adopted for the purpose of evading the MSPA and these regulations.
- e. **Restriction on Subsequent Transfer**
- The transfer or potential sale of the gifted tract created by the family gift or sale exemption within three years of creation of the tract will result in the presumption that the use of the exemption was adopted for the purposes of evading the MSPA and the recordation of the instrument of conveyance of a parcel created by family gift or sale within three years of creation may be subject to refusal of the Clerk and Recorder.

4-5-3. Divisions of Land Proposed for Agricultural Use Only [76-3-207(1)(c), MCA]

- a. **Statement of Intent**
- This exemption is intended to allow a landowner to create a parcel for gift, sale, or agreement to buy and sell, outside a platted subdivision, without subdivision review if the parcel will be used only for the production of livestock or agricultural crops and no residential, commercial, or industrial buildings, which require water or sewer, will be built on it.
- b. **Required Information**
- A certificate of survey that uses this exemption to create a parcel only for agricultural use requires a covenant running with the land in accordance with 76-3-207(1)(c), MCA, and a signed and acknowledged recitation of the covenant on the face of the survey. [ARM 24.183.1104(f)(iii)]
- c. **Use of Exemption**
- i. "Agricultural purpose," for purposes of these evasion criteria, means all aspects of farming or ranching including the cultivation or tilling of soil; dairying; the production, cultivation, growing, or harvesting of agricultural or horticultural commodities; raising of livestock, bees, fur-bearing animals or poultry; and any practices including forestry or lumbering operations, preparation for market or delivery to storage, to market, or to carriers for transportation to market [See 41-2-103(1), MCA.]. Agricultural lands are exempt from review by the DEQ, provided the applicable exemption under the Sanitation in Subdivisions Act is properly invoked by the property owner.

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- ii. Any change in use of the land for anything other than agricultural purposes subjects the parcel to review as a minor subdivision and sanitation review.
 - iii. Residential, commercial, or industrial structures, including facilities for commercial processing of agricultural products, may not be utilized, constructed, or erected on parcels created under this exemption unless the covenant is revoked and sanitation review completed.
- d. Rebuttable Presumptions

The following conditions must be met or the use of the exemption will be presumed to have been adopted for the purpose of evading the MSPA:

- i. The parties to the transaction must enter into a covenant running with the land and revocable only by mutual consent of the BCC and the property owner that the divided land will be used exclusively for agricultural purposes. The covenant must be signed by the property owner, the buyer, and the members of the governing body.
- ii. The landowner must demonstrate that the planned use of the exempted parcel is for agricultural purposes and that no residential, commercial, or industrial buildings have been or will be built on it.
- iii. The parcel must meet the criteria for an agricultural designation under Section 15-7-202, MCA.

4-5-4. Relocation of Common Boundaries Involving Platted Subdivisions [76-3-207 (1)(d), (e) and (2)(a), MCA]

a. Statement of Intent

- i. The MSPA allows certain revisions to platted subdivisions, which include relocation of common boundaries and the aggregation of lots for five (5) or fewer lots within a platted subdivision or the relocation of a common boundary between a single lot in a platted subdivision and adjoining land outside a platted subdivision (but a restriction or requirement on either continues to apply), without review.
- ii. If a change is made to a platted subdivision, which rearranges six or more lots, the BCC must review and approve the amended plat and an amended plat must be filed with the Clerk and Recorder.

b. Use of exemption

Relocation of a common boundary between a single lot in a platted subdivision and adjoining land outside a platted subdivision [76-3-207(1)(e), MCA] is allowed, because no additional parcels are created. Subdivision review is not necessary because the relocation does not create any additional division of land.

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c. Rebuttable presumptions

- i. If the resulting lots are inconsistent with the approved subdivision and the uses in it, the use of the exemption will be presumed to have been adopted for the purpose of evading the MSPA.
- ii. If the resulting lots do not comply with existing zoning, covenants, and/or deed restrictions, the use of the exemption will be presumed to have been adopted for the purpose of evading the MSPA.
- iii. If additional lots are created, the use of the exemption will be presumed to have been adopted for the purpose of evading the MSPA.
- iv. The proposed relocation creates a new buildable tract from one that did not have a practical building site.
- v. The proposed relocation significantly changes the area between the existing and proposed parcel sizes.
- vi. The proposed relocation would cause significant impacts to the criteria listed in Section 3-2-8 that would likely lead to imposition of significant conditions of approval, or denial, of an equivalent subdivision application.

4-6. PROCEDURES AND REVIEW OF SUBDIVISION EXEMPTIONS

4-6-1. Submittal

Any person seeking exemption from the requirements of the MSPA, shall submit to the Planning Department:

- (a) Subdivision exemption application (See the relevant Administrative Materials available at the Planning Department for the application form.);
- (b) Drawing showing the proposed exemption;
- (c) Conflict of interest statement;
- (d) Other required information as set forth in Sections 4-2, 4-3, 4-4, and 4-5; and
- (e) A notarized request for family transfer form signed by all parties, if applicable.
- (f) In addition, applicants may want to provide written responses regarding the general evasion criteria and any specific rebuttable presumptions that apply to their exemption request.

For purposes of 76-3-207, MCA, when a parcel of land for which an exemption from subdivision review is claimed is being conveyed under a contract-for-deed, the terms "property owner," "landowner," and "owner" mean the seller of the parcel under the contract-for-deed, with the exception of family transfers in which case the grantor must be the titleholder. [ARM 24.183.1104]

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4-6-2. Review

When a division of land for which an exemption is claimed is submitted to the Planning Department, the Planning Department shall send notice of the proposed exemption to designated agents of the BCC including the County Attorney, RCEH, Treasurer, and Clerk and Recorder. The Planning Department and the BCC's designated agents shall review the claimed exemption to verify that it is the proper use of the claimed exemption and complies with the requirements set forth in the MSPA, the Montana Sanitation in Subdivisions Act, and these regulations.

- a. The Planning Department shall hold a public meeting with any interested designated agents of the governing body to review the proposed exemption to determine whether the use of the exemption creates a rebuttable presumption that the use of the exemption would evade the Montana Subdivision and Platting Act or these regulations. The applicant and the applicant's representative shall be notified of the date and time of the public meeting. The Planning Department shall review each exemption proposal against the general evasion criteria set forth in Section 4-2 and against any applicable rebuttable presumptions as may be set forth in Sections 4-3, 4-4, or 4-5. (See option above for providing written responses as part of the application materials.) The applicant, the applicant's representative, and the public shall be permitted to comment on the proposal and rebut any presumptions. Following public comment, planning staff shall announce their decision regarding each application during the public meeting.
- b. Following the public meeting, the Planning Department shall mail a decision letter to the applicant stating the applicant's eligibility to use the exemption. If the exemption is denied, the notification shall indicate the reasons for the denial and that the applicant may request a hearing with the BCC to review the denial.
- c. An approval of a subdivision exemption is valid for a period for one year. A one-year extension may be granted in writing by the Planning Department upon written request of the applicant received prior to expiration of the approval period.
- d. To record the exemption, the applicant is required to submit the following documents, as appropriate, to the Clerk and Recorder's Office:
 - i. The original copy of the approval letter.
 - ii. A copy of the "Notarized Request for Family Transfer Form," if requesting a family transfer exemption.
 - iii. The appropriate recording fees.
 - iv. The survey (one paper copy, two mylar copies) with the appropriate certification of exemption on the face of the survey. (For form and content instructions, refer to the Administrative Materials available at the Planning Department.)
 - v. The original copy of the Certificate of Subdivision Approval from the DEQ and/or provide a letter of approval from the RCEH for the exemption(s) from DEQ review quoted on the survey.

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- vi. For a court order, a copy of the order and evidence of Planning Department review per Section 4-3(a).
 - vii. For a family transfer, a deed(s) that transfers the parcel(s) to the appropriate family member(s).
 - viii. For an agricultural exemption, a covenant that runs with the land that restricts the property to agricultural use and that is revocable only by mutual consent of the BCC and the property owner.
 - ix. For an exemption for construction financing, the mortgage, lien, or trust indenture, which states that the interest is being created only to secure a construction mortgage, lien, or trust indenture.
 - x. For a boundary line relocation, a quit claim or warranty deed or recordable agreement from adjoining property owners for the entire newly described parcel(s) or that portion of the tract(s) that is being affected.
- e. The Clerk and Recorder's Office shall review the documents submitted for recording and determine whether the submittal is complete or incomplete. If the application is incomplete, the Clerk and Recorder's Office shall notify the applicant of any deficiencies. The Clerk and Recorder's Office shall take no further action to process the application until the deficiencies are remedied.
 - f. For those surveys that constitute a division of land, the County Treasurer, or designated agent, shall certify that all real property taxes and special assessments assessed and levied on the land have been paid.
 - g. The Clerk and Recorder shall file the survey if it conforms to these regulations and the MSPA.

4-6-3. Appeals

- a. Any person whose proposed use of an exemption has been denied by the Planning Department because the proposed division of land has been deemed an attempt to evade the MSPA, and these regulations, may appeal the Planning Department's decision to the BCC. The person may request a public hearing, and may submit additional evidence to show that the use of the exemption in question is not intended to evade the MSPA or these regulations, and, thereby rebut a presumption.
- b. If the BCC concludes that the evidence and information overcome the presumption that the exemption is being invoked to evade the MSPA or these regulations, it may authorize the use of the exemption in writing, which shall serve as the approval letter required to be submitted in Section 4-6-2(d)(i).
- c. If the person proposing to use an exemption chooses not to rebut a presumption when the Planning Department deems the use of the exemption an attempt to evade the MSPA and these regulations, or if the BCC determines that the proposed use of an exemption was for the purpose

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of evading the MSPA or these regulations, the landowner proposing to use the exemption may submit a subdivision application for the proposed land division.

4-7. REMAINING PARCELS OF LAND

Occasionally parcels of land are created after the rest of the land has been subdivided or after an exemption is used to divide the land. The term "remainder" has been used to refer to that portion of an original tract which is not itself created for transfer but which is left after other parcels are segregated for transfer.

A "remainder" less than 160 acres in size, contiguous to a proposed subdivision, will be considered a lot in that subdivision and will not evade review as a "remainder." If an exemption by a certificate of survey is used, the remaining tract of land is a separate parcel which must be surveyed.

4-8. IDENTIFICATION CODES

To assist in the implementation of this review process and to monitor those parcels by exemption the Clerk and Recorder may cause the following identification codes to be added to the numbering of recorded certificates of survey filed after the effective date of these regulations.

- CT ... Court order [76-3-201(1)(a), MCA]
- M ... Mortgage Exemption [76-3-201(1)(b), MCA]
- LE ... Life Estate [76-3-201(1)(e), MCA]
- R ... Relocation of Common Boundary [76-3-207(1)(a), MCA]
- F ... Family Conveyance [76-3-207(1)(b), MCA]
- A ... Agricultural Exemption [76-3-207(1)(c), MCA]
- SO ... Occasional Sale (used prior to April 6, 1993)
- AG ... Aggregation of Lots [76-3-207(d), MCA]

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CHAPTER 5. DESIGN AND DEVELOPMENT STANDARDS

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5-1-2. General Description

This Chapter describes the design and development standards that apply to certain subdivisions. As described in Chapter 7, variances may be granted to allow deviations from the standards as specified in this Chapter.

5-1-3. Applicability

The following shall comply with this Chapter:

- (1) minor subdivisions;
- (2) major subdivisions;

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- (3) subsequent minor subdivisions;
- (4) amended subdivisions, when platted lots within a filed subdivision are further divided to create additional lots or when six (6) or more lots are redesigned; and
- (5) parcels where the property owner wants to remove an agricultural covenant required as a condition of using a subdivision exemption pursuant to 76-3-207(1)(c), MCA.

5-1-4. Findings

The Board of County Commissioners makes the following findings:

- (1) The County has the option of accepting a bond or other reasonable security for the completion of public infrastructure before or concurrent with the filing of the final plat. (See 76-3-507, MCA)
- (2) Excessive or inappropriate design and improvement standards add unnecessary cost to a development.
- (3) A mechanism is needed to ensure that all infrastructure necessary for a subdivision will be completed.

5-1-5. Purpose

The purpose of this Chapter is promote the public health, safety, and welfare and to:

- (1) minimize the negative effects of subdivisions on the general public and surrounding landowners;
- (2) establish minimum standards for the development of public and private roads, bridges, pedestrian ways, and access control to and from public roads.
- (3) require that the developer complete all infrastructure before filing the final plat and/or enter into an improvement agreement with the County

5-1-6. Responsibility for Improvements

All improvements required by this Chapter shall be designed, installed, and paid for by the developer, unless otherwise specified.

5-1-7. Certification of Completion

Prior to filing of the final plat, a the developer shall obtain written certification from a licensed professional engineer using the form(s) as may be used by the Road and Bridge Department, that the infrastructure required by this Code has been built and installed in accordance with this Code and acceptable construction practices (available in the Road and Bridge Department). The certification may be provided after filing the final plat when a bond or other security is provided in accordance with Sec 76-3-507 MCA.

5-1-8. General Design Principles

Subdivisions shall be designed to avoid adverse impacts. If avoidance of an adverse impact(s) is not possible, then that adverse impact(s) shall be minimized to an acceptable level and also mitigated in some manner. Adverse impacts on the following shall be considered:

- (1) agriculture, including: the agricultural sector, loss of important agricultural ground, and surrounding agricultural activities or practices;
- (2) agricultural water-user facilities;

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- (3) local services, including: public road system, police and fire protection, utilities, and public schools;
- (4) the natural environment, including: riparian/wetland areas, soil erosion, vegetation, and air pollution;
- (5) wildlife and wildlife habitat, including: fisheries and mammals; and
- (6) the public health and safety, including: police and fire protection, wildland fire hazard, traffic safety, and the presence of other known hazards such as high-pressure natural gas lines, airports, railroads, overhead power lines, industrial activities, irrigation ditches, and defined dam inundation areas.

5-1-9. Subdivision Name

- (a) Names of New Subdivisions

When a parcel not within an existing subdivision is subdivided, the subdivider shall select a name for the subdivision that does not duplicate or too closely approximate in spelling or in sound the name of any other subdivision within Ravalli County. A list of subdivision names that have been used is available in the Clerk & Recorder's Office.

- (a) Names of Subdivisions on Resubdivided Lots

When a lot(s) within an existing subdivision is further subdivided, the name of the subdivision shall remain the same as the parent subdivision and the lots shall be renumbered with a suffix or prefix as appropriate. (For example, when Lot 9 of Westridge subdivision is resubdivided into additional lots, then the lots would be designated as Lot 9-A, 9-B, and so on of Westridge Subdivision.) The Ravalli County Clerk and Recorder may waive this requirement for a major subdivision, if renaming the subdivision would cause less confusion.

ARTICLE 2. LOTS AND REMAINDERS

5-2-1. Specific Findings

The Board of County Commissioners makes the following findings:

- (1) A requirement that all remainders must be over 160 acres logically follows the definition of a subdivision as stated in the Montana Subdivision and Platting Act.
- (2) Perpetual road maintenance is needed on all roads that provide access to a subdivision to provide safe road conditions and to ensure public health, safety, and welfare. Currently, there is no formal mechanism for a subdivider to enter into an agreement with the Forest Service for road maintenance when the property accesses a Forest Service road. Furthermore, the County is not able to assume such road maintenance responsibility when it cannot meet its current maintenance responsibilities. As a consequence, it is not appropriate to approve of subdivisions on Forest Service roads when there is neither state or county maintenance.
- (3) Rivers and streams are an important resource in that they provide valuable fish and wildlife habitat and drain excess water from the land. However, they are sensitive to human caused alterations. Alteration of the bank and streamside vegetation can impair the ability of a stream to function properly. A no build/alteration zone will help to mitigate the negative impacts and protect the water quality and function of the stream. In addition, normal bank erosion and channel movement along the Bitterroot River will more likely than not, threaten homes that are placed too

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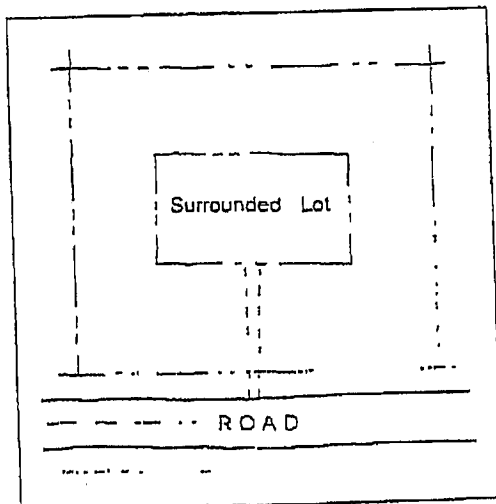
close to the river bank. The no-build/alteration zone will ensure that homes are not built too close to the river.

- (4) A public service utility operates a high-pressure natural gas line within the County. If the line were to rupture, it would represent a tangible threat to residences near the line. A requirement that keeps residences at least 25 feet from this gas line will reduce, but not remove, the threat from a major rupture in the gas line.

5-2-2. Lots

- (a) *Lot Design.* Lots shall conform to the following criteria:
- (1) No lot shall have an average depth greater than four (4) times its average width.
 - (2) No lot shall be divided by a municipal or county boundary.
 - (3) No lot shall be divided by a public road or right-of-way.
 - (4) Side lot lines shall be at substantially right angles to straight road lines and radial to curved road lines.
 - (5) No lot shall be surrounded by another single lot. (See Figure 5-2-1)

Figure 5-2-1.
Lot Surrounded by Another Lot.

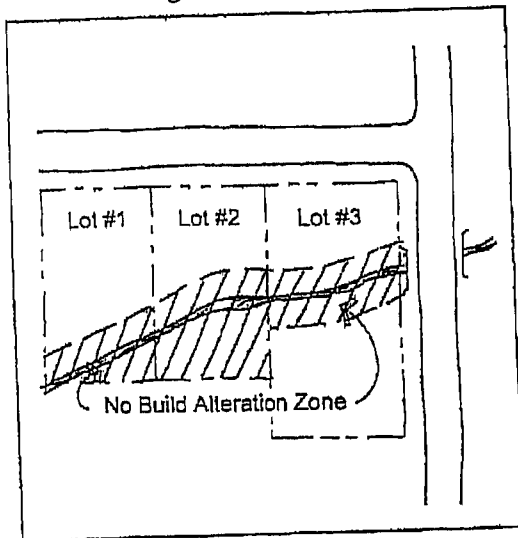


- (6) Whenever possible, a stream should not divide a lot, unless a no-build alteration zone is placed along the stream or both sides of the parcel have existing road access. (See Figure 5-2-2)

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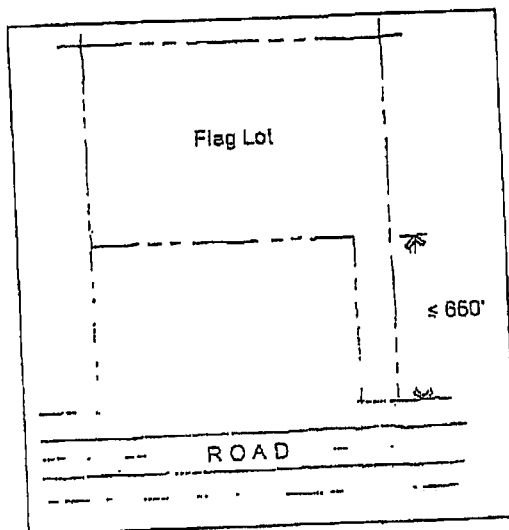
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Figure 5-2-2.
Lot Lines Along Streams.



- (7) The stem on flag lots (easements or fee-simple ownership) shall not exceed six hundred sixty (660) feet. (See Figure 5-2-3) Furthermore, flag lots shall not be used to avoid road construction.

Figure 5-2-3.
Flag Lot Requirements.



- (8) No lot shall be wholly located within the 100-year floodplain unless a permanent deed restriction is recorded with the Clerk and Recorder indicating that the parcel may only be used for agriculture or recreational purposes and that no building shall be constructed. (See 76-3-504(5), MCA)

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- (9) Lots shall be located on each side and around the perimeter of a cul-de-sac or hammerhead turnaround.
 - (10) No building site within a lot or access to the lot shall be subject to natural hazards.
 - (11) Slopes more than twenty-five (25) percent are unsuitable for building sites and shall be designated as a no build/alteration zone on the face of the final plat, unless a site design and building layout plan is submitted to address site constraints.
 - (12) As a general guideline, land within one hundred (100) feet of the ordinary high-water mark of streams shall be designated as a no build/alteration zone on the face of the final plat. This zone may be made wider or narrower depending on the particular circumstances(s) of the subdivision proposal and the stream. However, protection of the waterbody and the structures that will be built on the lots(s) should be of primary importance.
 - (13) Land within 25 feet of a high pressure gas line that is eight (8) inches or greater in diameter, shall be designated as a no-build zone on the face of the final plat, which only applies to residential dwellings, commercial and industrial structures.
- (b) *Lot Size.* Lot sizes shall conform to all of the following: (See 76-3-504(6)(a), MCA)
- (1) Each lot shall have an area sufficient to meet all design and development standards in this Code.
 - (2) Each lot shall have an area sufficient for a practical building site of at least 7,500 square feet that is accessible by a driveway. A lot not intended as a building lot, is allowed, provided the permitted use is designated on the face of the final plat and a permanent deed restriction is recorded with the Clerk and Recorder.
 - (3) When a proposed subdivision is located in a voluntary zoning district, it shall conform to the lot restrictions, if any, of that district.
 - (4) When a proposed subdivision is subject to existing covenants, deed restrictions, or any other restrictions filed in the records of the Clerk and Recorder's Office, it shall conform to the lot restrictions, if any.
 - (5) Relative to sanitation requirements, lot sizes shall conform to the standards of the Department of Environmental Quality (DEQ) as summarized in Table 5-2-1. In all circumstances, the standards of DEQ shall prevail.

Table 5-2-1.
Sanitation Guidelines.

Water Source	Sewage Disposal	Minimum Lot Area
Individual Well	Individual Septic	1 acre (43,560 square feet)
Public Water	Individual Septic	20,000 square feet
Individual Well	Public Sewer	20,000 square feet
Public Water	Public Sewer	None specified

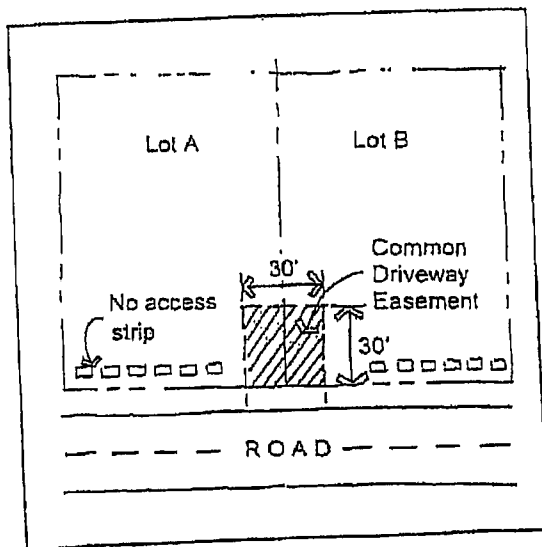
- (c) *Lot Access.* Access shall conform to the following criteria: (See 76-3-504(6)(a), MCA)
- (1) Each lot shall have legal access. (See 76-3-608(3)(d), MCA)
 - (2) Each lot shall have physical access according to the road design and development standards as required in this Chapter. (See 76-3-608(3)(d), MCA)

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- (3) A lot may not access a Forest Service road. A lot must access directly on to a road under the jurisdiction of a state, county or town, or on to a private road that accesses a road under the jurisdiction of the state, county or town.
- (4) When a lot fronts on more than one (1) public road, legal and physical access shall be provided on the road with the lowest functional classification and prohibited on the other road(s).
- (5) When two adjoining lots abut a major collector road or a higher classification road, a common driveway easement of thirty (30) feet by thirty (30) feet shall be located on the common boundary between the two lots and a no ingress/egress strip designated on the remainder of the lot frontages, except where the individual accesses (existing and proposed) for each of the lots could be more than six hundred (600) feet apart. (See Figure 5-2-4)
- (6) When a subdivision with more than two (2) lots fronts on a public road classified as a minor collector or higher, all lots within the subdivision shall access off of a road internal to the subdivision.

Figure 5-2-4.
Common Driveway Easement.



5-2-3. Remainders

- (1) The remainder parcel shall not be created for the purpose of transfer. (See: Attorney General Letter Opinion to Robert M. McCarthy, Esq., April 22, 1987)
- (2) The remainder parcel is not subject to survey requirements regardless of its size, unless it is to be transferred to another party at a later date. (See: Letter opinion from Attorney General Letter to Robert M. McCarthy, Esq., April 22, 1987 and also 76-3-401, MCA)
- (3) The subdivision may not create more than one (1) remainder parcel.
- (4) The remainder parcel shall exceed 160 acres unless the subdivider resides on the remainder parcel.

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- (5) Prior to a transfer of an unsurveyed remainder to another party, it shall be surveyed and the survey filed with the Clerk and Recorder, unless it can be described as a $\frac{1}{4}$ or larger aliquot parts of a United States government section or a United States government lot. (See 76-3-401, MCA)

ARTICLE 3. SANITATION

5-3-1. Water Supply and Wastewater Treatment Systems

Water supply and wastewater treatment systems shall meet the following minimum requirements:

- a. Regulations adopted by the DEQ under 76-4-104 for subdivisions that will create one or more parcels containing less than 20 acres; and
- b. Standards provided in 76-3-604 and 76-3-622 for subdivisions that will create one or more parcels containing 20 acres or more and less than 160 acres.

ARTICLE 4. TRANSPORTATION

5-4-1. Specific Findings

The Board of County Commissioners makes the following specific findings for this part:

- (1) Roads serve two competing functions: property access and efficient movement of goods and people.
- (2) When the number of accesses onto a high-traffic road increases, traffic efficiency declines and safety is jeopardized as depicted in Figure 5-4-1.
- (3) A well-developed and well-maintained road system is needed to provide proper access to property and efficient traffic circulation.
- (4) Roads are an important factor in community and subdivision design. Improperly designed roads and intersections can negatively affect the safety and efficiency of private and public roads. Furthermore, they can create unnecessary maintenance costs, limit a parcel's development potential, and limit a project's desirability.
- (5) Road standards should be designed to promote public health, safety and welfare.
- (6) Traffic control signs at high-traffic locations are needed to ensure efficient and safe vehicular and pedestrian movement.
- (7) Studies have shown that roads that do not intersect at about 90 degrees generally have higher accident rates than those that do.
- (8) The advantages of a single access point to a major residential project (greater sense of security and elimination of through-traffic) are generally outweighed by the advantages of multiple access points, which include reduced internal congestion and diffusion of the development's full traffic impact to the external public road system.
- (9) Cul-de-sacs represent a viable means of providing access to properties, provided the length does not become too long.
- (10) Traffic volume and the number of housing units should be two of the factors that determine the maximum length of a cul-de-sac.
- (11) Road intersections are points of conflict and a potential hazard. Road intersections should be designed to afford drivers complete and unobstructed view of approaching traffic to enable them to safely enter or cross the traffic flow.

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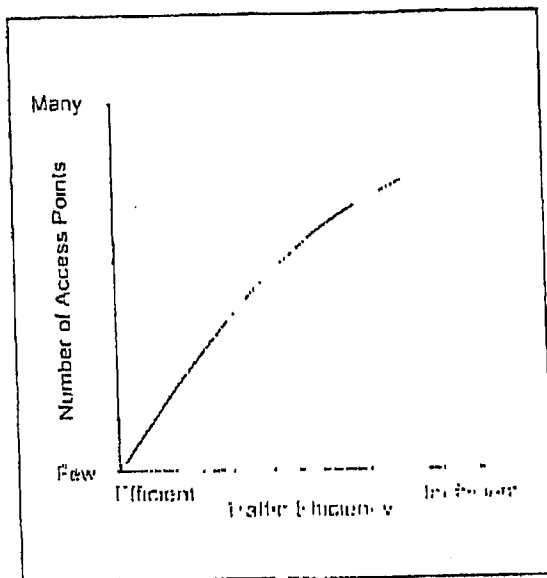
- (12) The primary use of road right-of-ways and easements is for the placement of roads. The placement of mail boxes and utilities and other uses are secondary purposes that must be compatible with the primary use.
- (13) Roads are critical to physical lot access and must be in place before filing of the final plat.

5-4-2. Purpose

The purpose of this Article is to:

- (1) Establish a hierarchy of road types with corresponding development standards.
- (2) Optimize efficient traffic movement.
- (3) Optimize traffic safety.
- (4) Ensure legal access to all parcels of land.
- (5) Minimize adverse environmental impacts from road development.
- (6) Create functional and attractive developments that will be an asset to the county.
- (7) Ensure that private roads do not negatively impact the efficiency or safety of public roads.
- (8) Reduce the number of conflict points between pedestrians and vehicles.
- (9) Ensure that all roads accommodate the requirements of emergency vehicles for ingress and egress.

Figure 5-4-1.
Relationship Between Access and Traffic Efficiency.



- (10) Establish standards to ensure adequate sight distances at road intersections so that motorists at an intersection can see approaching traffic and allow them to safely enter or cross the traffic flow.
- (11) Minimize the surface area of roads to reduce stormwater runoff and increase groundwater infiltration.
- (12) Minimize the number of accesses onto County and State roads to maintain traffic efficiency and safety.

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5-4-3. Road Classification

For the purpose of this Code, road types are established based on their location and predominant function within the County Roadway system. For definitions of the functional classifications, refer to the standards adopted by the Ravalli County Road and Bridge Department as listed below in Table A-I.

5-4-4. Road Layout Standards

- (a) *Topography.* Road grades shall conform as closely as possible to the original topography, provided they do not exceed the maximum grades as determined through the application of the adopted standards listed in Table A-I and as supplemented by Table B-1. Road cuts and fills should be kept to a minimum. "Side hilling" on slopes greater than 30 percent should be avoided.

Table A-I

<i>The following have been adopted by Ravalli County:</i>	
1	<i>Specific provisions of Montana law, including the Montana Code Annotated and the Administrative Rules of Montana</i>
2	<i>The Federal Highway Administration's (FHWA) Manual on Uniform Traffic Control Devices (2003 and updates);</i>
3	<i>Specific provisions of the Ravalli County Subdivision Regulations;</i>
4	<i>The American Association of State Highway and Transportation Officials (AASHTO) Guidelines for Geometric Design of Very Low-Volume Local Roads (ADT ≤ 400) (2001 & updates);</i>
5	<i>The American Association of State Highway and Transportation Officials (AASHTO) Policy on Geometric Design of Highways and Streets (2001 & updates);</i>
6	<i>The Montana Public Works Standard Specifications, 5th edition, (2003 & updates);</i>
7	<i>The American Association of State Highway and Transportation Officials (AASHTO) Guide for Design of Pavement Structures (1993 & updates).</i>

- (b) *Avoidance of Environmentally Sensitive Areas.* Roads shall be laid out to avoid environmentally sensitive areas, such as wetlands, sensitive wildlife habitat, and prime farmland.
- (c) *Coordination with Surrounding Area.* Roads shall be properly related to adjoining land uses and special traffic generators such as business districts, schools, churches, population centers, and commercial centers.
- (d) *Connection to Adjoining Parcels.* Roads in a new development shall be connected to a right-of-way or easement in adjacent platted areas to allow for proper inter-neighborhood traffic flow. If adjacent lands are vacant or un-platted, the road right-of-way or easement shall be extended and the street developed to the property line of the adjacent parcel, where appropriate to allow for proper inter-neighborhood traffic flow.

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- (e) *River Crossings.* Where a road crosses a river or stream, the road shall intersect the river at right angles, except where impractical due to environmental damage, excessive construction costs, and other factors.
- (f) *Roads Along Adjoining Property.* Roads within the external boundaries of the subdivision which provide legal access to one or more subdivision units in the subdivision shall not be located along the perimeter of the subdivision without the expressed written consent of the adjoining property owner unless the road is hard-surfaced.
- (g) *Intersections.* Intersection locations and design shall conform to the standards outlined in Table A-I.
- (h) Table B-1 provides an overview of portions of the guidelines and standards contained in Table A-1 with additional requirements. Figure A-1 shows a typical road cross-section.

Table B-1: Specific Road Design Standards

	Rural Collector AASHTO "Green Book" ¹ Chapter 6	Local Road 400 + ADT AASHTO "Green Book" ¹ Chapter 5	Local Road ³ 0 – 400 ADT AASHTO "Low Volume Guide" ²
Minimum Design Speed (MPH)	Per AASHTO	Per AASHTO	Per AASHTO
Minimum Paved Travel Surface	24 ft ⁴	22 ft ^{4,5}	18 ft ⁴
Minimum Gravel Shoulder	2 ft ⁶	2 ft ⁶	2 ft ⁶
Minimum R.O.W.	60 ft ⁷	60 ft ⁷	60 ft ^{7,8}
Maximum Grades ⁹	10% ⁹	10% ⁹	10% ⁹
Minimum Centerline Radius (ft)	Per AASHTO	Per AASHTO ¹⁰	Per AASHTO ¹⁰
Maximum Cul-De-Sac Length (ft)	Not Allowed	1400	1400

¹ "Green Book" refers to the latest edition of *A Policy on Geometric Design of Highways and Streets* published by the American Association of State Highway and Transportation Officials.

² "Low Volume Guide" refers to the latest edition of *Guidelines for Geometric Design of Very Low-Volume Local Roads (ADT < 400)* published by the American Association of State Highway and Transportation Officials.

³ Specified standards in this table apply to the following local road classifications: rural major access, rural minor access, urban major access, and urban residential. For classifications: Industrial/Commercial Access, Agricultural Access, and Recreational and Scenic Roads, designs shall be per the AASHTO "Low Volume Guide."

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⁴ The minimum paved travel surface does not allow for parking on either side of the road. Additional road width is required to accommodate parking.

⁵ Twenty-two feet or per AASHTO, whichever is greater.

⁶ A total shoulder width on each side of the travel way shall be provided per AASHTO with a minimum two feet of gravel surfacing.

⁷ 60-foot minimum or greater if additional right-of-way width is required to accommodate the road cross-section elements.

⁸ All public roads and county roads shall have a minimum 60-foot right-of-way width. An 18-foot wide private road may have a 50 ft easement provided utilities and drainage is contained within the roadway easement or additional easement width is provided.

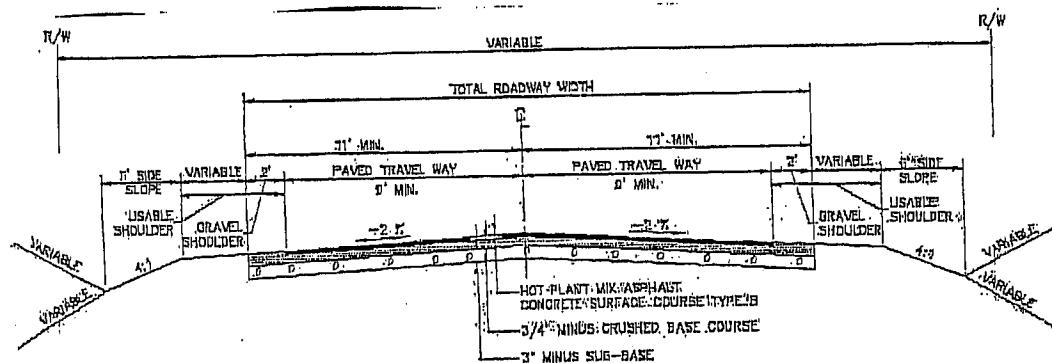
⁹ Grade specified in Table B-1 or AASHTO, whichever is lower.

¹⁰ For urban residential areas, a minimum centerline radius of 100 ft. may be used.

NOTES:

1. All road classifications above a Rural Collector should refer to the latest edition of *A Policy on Geometric Design of Highways and Streets* published by the American Association of State Highway and Transportation Officials.
2. Densities of 2 units per acre or higher are classified as urban areas and shall use the AASHTO guidelines for urban roads.

The following is a general schematic showing a typical cross-section



TYPICAL ROAD SECTION ELEMENTS
NO SCALE

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5-4-5. Road Standards

- (a) All roads providing primary access to the subdivision shall meet or exceed the road standards as specified in Table A-I, with the exception of substandard County-maintained roads providing primary access to a subdivision with 20 or fewer units, which shall meet the requirements in Section 5-4-5(d).
- (1) For new construction, in no case will the total clear (unobstructed) travel surface be less than 22-feet in width, which may include a two-foot shoulder on each side of an 18-foot wide travel surface.
 - (2) For new and existing construction, all road rights-of-way and easement widths shall be a minimum of 60-feet.
 - (3) For new construction, road grades shall not exceed 10% maximum grade as specified in Table B-1.
 - (4) Roads through a subdivision which do not provide access to lots within the subdivision are exempt from these requirements.
- (b) *Paving.*
- (1) *Two units.* Roads serving two unit subdivisions are exempt from paving requirements for the first division. Second or subsequent minor subdivisions shall fall under the paving requirements for the number of lots within the entire subdivision that are created (i.e., the total number of units in the original subdivision plus the number of units in any subsequent subdivision of lots). All such roads shall meet the County's adopted standards for new construction as listed in Table A-I. No road within a subdivision of three or more units shall be considered under this subsection.
 - (2) *Three to five units.* All roads serving three to five units within the subdivision shall be hard surfaced and shall meet the County's adopted standards for new construction as listed in Table A-I.
 - (3) *Six to 20 units.* All roads serving six to 20 units within the subdivision shall be paved and meet the County's adopted standards for new construction as listed in Table A-I.
 - (4) *Twenty-one or more units.* All roads serving 21 or more units within the subdivision shall be paved and all plans shall be prepared by a licensed professional engineer who has provided evidence of coverage by a commercially reasonable policy of errors and omissions insurance of not less than \$1,000,000.00/occurrence limit. All subdivisions of 21 or more units shall acquire all proper easements, and all roads within and leading to the subdivision shall be brought to county standards for new construction from the nearest county standard road which meets the County standards for new construction over its length that lies on the primary access route to the subdivision.
- (c) *Standard County-Maintained Roads.* Roads within the County shall be considered standard if they have been legally adopted as a County road or have been identified as County-maintained roads, and meet or exceed the requirements in the County's adopted standards for existing construction over its relevant length as inspected and approved by the County Road Supervisor.
- (d) *Substandard County-Maintained Roads.* Where a subdivision is accessed by a substandard County-maintained road(s), the developer shall contribute to the County an amount equal to the pro-rata share of the improvements necessary to bring said road(s) up to County road standards as described in the County's adopted standards over its relevant length as listed in Table A-I. Pro

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rata funds will be deposited in an account for the road grader district in which the subdivision is located, and will be utilized only for road improvements on roads within that district. Road grader districts shall relate to defined geographic areas which will ensure that the use of the pro rata funds will benefit the developments which are the sources of the funds. If the County does not use the contribution within seven years, the County shall reimburse the developer upon the written request from the developer, provided that the request is received prior to use of the contribution.

- (e) *Substandard Roads not identified as County-Maintained Roads.* Where a subdivision is accessed by a substandard non-County-maintained road(s), the developer shall make all improvements that are necessary to bring that road(s) up to county road standards as defined in the County's adopted standards for new construction over its relevant length as listed in Table A-1.

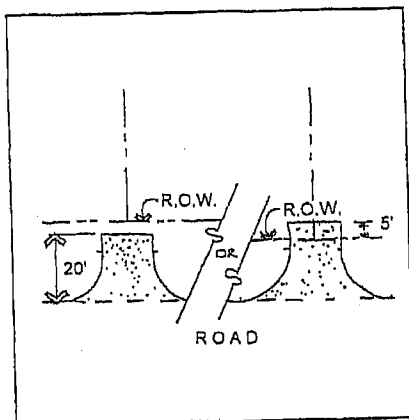
5-4-6. Intersection Visibility

- (a) *Generally.* To provide motorists with a clear view of intersection roads (public and private), sight distances shall be provided as listed in the adopted county standards in Table A-I for all road intersections and driveway intersections with roads.
- (b) *Measurement Criteria.* Visibility distances and measurements shall be in accordance with the county's adopted standards in Table A-I.

5-4-7. Common Driveways (See: 76-3-504(6)(a), MCA)

- (a) *Generally.* Where required by Section 5-2-2(c)(5), the developer shall, before filing of the final plat, install a common driveway within the common driveway easement.
- (b) *Size.* The driveway surface shall measure no more than eighteen (18) feet wide and shall extend from the existing road surface at least twenty (20) feet or to five (5) feet beyond the right-of-way line whichever is greater. The inside radius shall be fifteen (15) feet. (See: Figure 5-4-5)

Figure 5-4-5.
Common Driveway.



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5-4-8. Miscellaneous Improvements (See: 76-3-504(6)(a), MCA)

The following off-site and on-site improvements, or pro-rata share, as appropriate, shall be provided when needed to ensure traffic efficiency and traffic safety, including pedestrian safety:

- (1) acceleration, deceleration, and turning lanes,
- (2) school bus pull-off lanes,
- (3) frontage roads,
- (4) traffic control lights, and
- (5) other traffic improvements as appropriate.

5-4-9. Dedication of Roads (See: 76-3-504(6)(a), MCA)

- (a) *Generally.* All roads within a subdivision shall be considered a private road.
- (b) *Conditions for Acceptance of a Private Road as a Public Road.* The Board of County Commissioners may accept a private road within a subdivision, a private road that leads to a subdivision, or portion thereof as a county road consistent with Title 7, Chapter 14, Part 26, MCA.

5-4-10. Traffic Control Signs

Traffic control signs and intersection signalization shall be required when needed for traffic safety and efficiency as outlined in the county's adopted standards in Table A-I.

5-4-11. Road Name Signs (See: 76-3-504(6)(a), MCA)

- (a) *Number and Where Required.* At least one (1) road name sign shall be installed at all road intersections.
- (b) *Sign Uniformity.* The developer shall pay for and the County Road Department shall prepare and install all road name signs.
- (c) *Names.* Road names shall follow the guidelines as established by the County.

5-4-12. Right-of-Way, Easements, and Public Dedications

- (a) *Right-of-Way and Easement Width.* Rights-of way and easements shall be provided as specified in the County's adopted standards in Tables A-I and B-I.
- (b) *Use of Right-of way.* Rights-of-way and private road/public utility easements shall be used for roads, sidewalks, bike paths, and utilities, including, sanitary sewer, potable water, telephone wires, cable television wires, gas lines, or electrical transmission, and other public and private infrastructure. The placement of roads shall take precedent over all other uses.
- (c) *Cut Fill Easement.* Where a cut or fill area of a road is outside of the normal right-of-way or easement, a slope easement of sufficient width shall be required to allow maintenance of the cut or fill area.

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- (d) *Vacation of Right-of-Way.* Pursuant to Title 7, Chapter 14, Part 26, MCA, the Board of County Commissioners may, at its discretion, vacate a public right-of-way. At a minimum, the following conditions shall be met:
- (1) The request is consistent with State law.
 - (2) The right-of-way does not provide the only legal and physical access to any property.
 - (3) The vacation would not jeopardize the current or future location of any public utility.
 - (4) The proposed vacation is not detrimental to the public interest and provides a positive benefit to the County.
- (e) *Utility Easement.* When it can be reasonably anticipated that utility facilities in one development will be connected or extended to serve another development(s), a utility easement shall be so designated on the final plat.
- (f) *Public Dedications.* No right-of-way or other dedication of land to the public shall be made without the expressed written approval of the Board of County Commissioners.

ARTICLE 5. HIGH-FIRE HAZARD AREAS

5-5-1. Specific Findings

The Board of County Commissioners makes the following findings specifically related to this part:

- (1) Wildland fire events are common in the county.
- (2) The number of proposed land divisions and resulting homes in the forested areas of the county are increasing.
- (3) Homes in the forested areas of the county pose a special safety concern as a wildland fire can spread to a structure or from a structure to the forest.
- (4) Because of some past fire suppression efforts the intensity of wildland fires has been increasing which poses an increased risk to people, private property, and natural resources.
- (5) A comprehensive approach, which includes housing development design, fuels management, public education, and fire suppression efforts, is needed to adequately address wildland fire safety.
- (6) Special design and improvement standards are appropriate given the tangible threat the wildland fires pose to people, private property, and natural resources.
- (7) A "defensible space" around a structure created by vegetation reduction gives firefighters a better chance of protecting the structure and the forest.
- (8) A subdivider does not necessarily know where a home will be constructed on each lot, especially on larger lots. Therefore, it is reasonable to require the lot buyer to create the "defensible space" around the building site before the start of home construction.
- (9) In a wildfire event, well-constructed roads are needed to allow simultaneous access by emergency vehicles and escape by local residents.
- (10) Regardless of all possible efforts, it is not possible to guarantee protection of life or property in a wildland fire event.
- (11) Ravalli County does not impose building codes on structures and it would not be possible to control the type of roofing material or other construction materials in an effort to further reduce fire danger.

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5-5-2. Purpose

The purpose of this part is to adopt minimum standards to protect lives, property, natural resources, and scenic beauty and to assist fire suppression agencies.

5-5-3. Applicability

The requirements in this article only apply to those parcels that are located in a high-fire hazard area. Such determination is made on a case-by-case basis. It is understood that there may be actions taken by a developer to remove the parcel from a high-fire hazard status.

5-5-4. Wildland Fire Hazard Determination

If the Planning Staff determines the potential for a wildland fire hazard, a wildland fire hazard determination shall be done prior to the public hearing for the proposed subdivision. The determination of a proposed subdivision as a wildland fire hazard shall be made by a forester at the expense of the subdivider. If determined to be a wildland fire hazard, the proposed subdivision is subject to the conditions described in section 5-5-5 of this Code.

5-5-5. Special Design Standards

- (a) *Access.* Each lot shall have legal and physical access onto a public or private road that has at least two routes to outside of the high-fire hazard area. Where appropriate, one of the access routes can be considered as a secondary route provided it is:
 - (1) not used for normal access to the lots;
 - (2) properly signed as a secondary access route; and
 - (3) constructed to allow two-way traffic so fire equipment can move in and people move out. These roads should be coordinated with evacuation plans as may be prepared by the Ravalli County Department of Emergency Services.
- (b) *Site Design Considerations.* Open space, parkland, and recreation areas, including green belts and trails, should be used as a buffer between densely forested areas and the homesites.
- (c) *Building Site Limitations.* Building sites shall not be located on slopes more than twenty-five (25) percent or at the apex of a "fire chimney" (topographical features, usually drainageways or swales, which tend to funnel or otherwise concentrate fire toward the top of steep slopes.)
- (d) *Use Limitations on Lots.* No lot shall be used for commercial or industrial uses where people are employed or come as a matter of course, with the exception of home occupations.

5-5-6. Minimum Improvement Standards

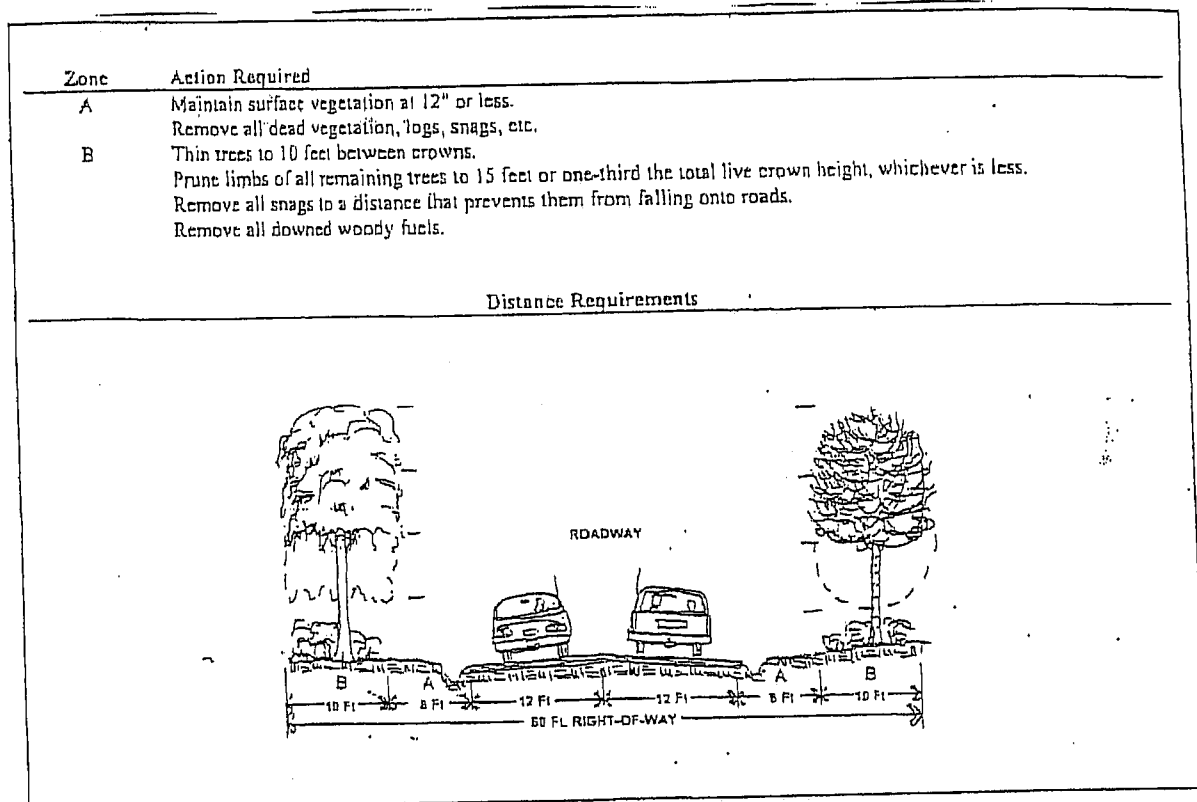
- (a) *Water Supply.* One of the following sources of water shall be provided for fire suppression:
 - (1) 1,000 gallons per minute flow from a municipal water system; or
 - (2) A water supply of at least 2,500 gallons for each lot. Said water supply shall be in close proximity to the lots, may be centrally located to serve multiple lots, and may consist of cisterns, reservoirs, ponds, or any combination thereof.

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- (b) *Vegetation Reduction Along Access Roads.* Prior to submitting a final plat for filing, vegetation reduction along access roads that pass through high fire-hazard areas shall be completed as described in Figure 5-5-1.
- (c) *Vegetation Reduction Around Principal Structures.* Covenants shall state that the property owner shall within three (3) months of occupancy complete the necessary vegetation reduction as described in Figure 5-5-2.
- (d) Other development standards should be incorporated as appropriate to minimize the tangible threats of wildland fire.

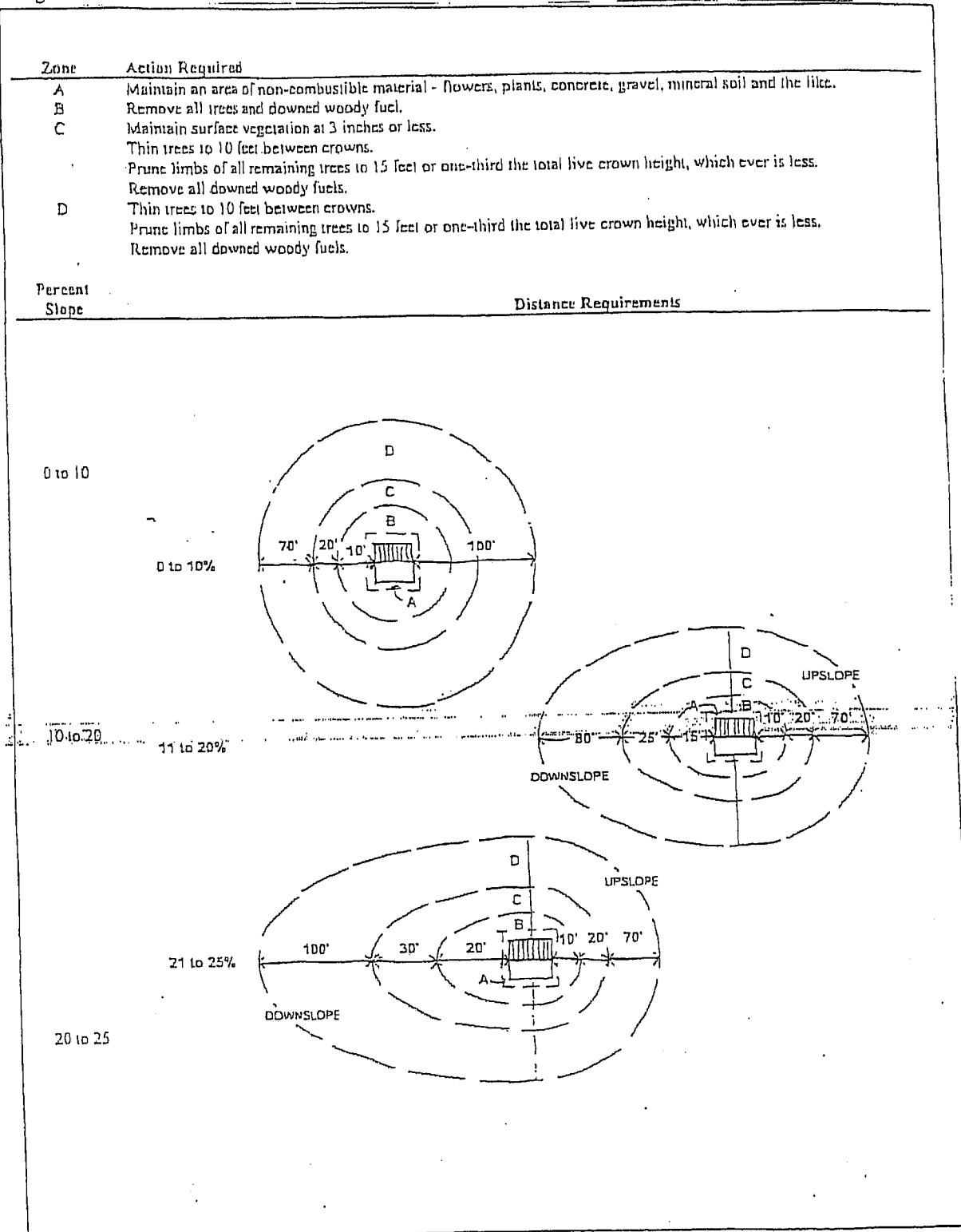
Figure 5-5-1
Fire Reduction Along Access Roads.



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Figure 5-5-2
Vegetation Reduction Standards for Principal Structures.



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ARTICLE 6. IRRIGATION WATER RIGHTS AND FACILITIES

5-6-1. Irrigation Easements

- a. When water rights are appurtenant to the land on which a subdivision is proposed, the subdivider shall establish ditch easements in the subdivision that:

- i. Are in locations of appropriate topographic characteristics;
- ii. Are of sufficient width to allow the physical placement and unobstructed maintenance of open ditches or belowground pipelines for the delivery of water for irrigation to persons and lands legally entitled to the water under an appropriated water right or permit of an irrigation district or other private or public entity formed to provide for the use of the water right on the subdivision lots;
- iii. Are a sufficient distance from the centerline of the ditch to allow for construction, repair, maintenance, and inspection of the ditch; and
- iv. Prohibit the placement of structures or the planting of vegetation other than grass within the ditch easement without the written permission of the ditch owner.

- b. Exceptions

The subdivider need not establish irrigation easements as provided above if:

- i. The average lot size is one (1) acre or less and the subdivider provides for disclosure, in a manner acceptable to the governing body, that adequately notifies potential buyers of lots that are classified as irrigated land and may continue to be assessed for irrigation water delivery even though the water may not be deliverable; or
 - ii. The water rights are removed or the process has been initiated to remove the water rights from the subdivided land through an appropriate legal or administrative process and if the removal or intended removal is denoted on the preliminary plat. If removal of water rights is not complete upon filing of the final plat, the subdivider shall provide written notification to prospective buyers of the intent to remove the water right and shall document that intent, when applicable, in agreements and legal documents for related sales transactions.
- c. The subdivider shall, unless otherwise provided for under separate written agreement or filed easement, file and record ditch easements for unobstructed use and maintenance of existing water delivery ditches, pipelines, and facilities in the subdivision that are necessary to convey water through the subdivision to lands adjacent to or beyond the subdivision boundaries in quantities and in a manner that are consistent with historic and legal rights;
- d. Disposition of Water Rights

When water rights are appurtenant to the land on which a subdivision is proposed, and the subdivision will create parcels with lot sizes averaging less than 5 acres, the subdivider shall:

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- i. Reserve all or a portion of the appropriation water rights owned by the owner of the land to be subdivided and transfer the water rights to a single entity for use by landowners within the subdivision who have a legal right to the water and reserve and sever any remaining surface water rights from the land;
- ii. If the land to be subdivided is subject to a contract or interest in a public or private entity formed to provide the use of a water right on the subdivision lots, establish a landowner's water use agreement administered through a single entity that specifies administration and the rights and responsibilities of landowners within the subdivision who have a legal right and access to the water;
- iii. Reserve and sever all surface water rights from the land;

5-6-2. Fencing of Irrigation Ditches

- (a) *When Required.* When an irrigation supply ditch abuts or traverses a subdivision, the subdivider shall install a fence(s) along the entire length of the ditch within the subdivision to provide an appropriate degree of safety. This requirement does not apply to lateral ditches or similar ditches off of these supply ditches or to those sections of a supply ditch that traverse through large parcels intended and suited for agricultural operations.
- (b) *Minimum Specifications.* The fence shall be at least 42 inches but no more than 48 inches high with a wire mesh fabric and posts and horizontal rails as appropriate. It shall be placed generally parallel to the ditch in a location as approved by the irrigation district/association in which it is located or as approved by the Board of County Commissioners if the ditch is not located in an irrigation district/association. The Board of County Commissioners may authorize an alternate design if it meets the intent of this section.

5-6-3. Irrigation Delivery System

When water rights are to be transferred to one (1) or more of the lots within a subdivision, an irrigation delivery system must be designed and installed. (Also see: Section 3-1-5 (a) (xxxviii))

ARTICLE 7. UTILITY STANDARDS

5-7-1. Electric and Telephone Service (See: 76-3-504(6)(d), MCA)

- (a) *Generally.* Service connections for electrical power and telephone shall be installed and located on each lot or located within an adjoining public utility right-of-way or easement.
- (b) *Requirements for Underground Utilities.* All electrical power lines, telephone lines, and cable television lines shall be placed underground when both of the following are possible:
 - (1) The lines could be placed underground without blasting, extensive use of jack hammers, or like efforts, and
 - (2) The cost/unit of underground installation does not exceed 1.5 times the cost/unit of overhead installation.

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- (c) *Utility Location.* Utility locations shall be approved by the appropriate utility company and the County when within a public easement or right-of-way. Any utilities installed under road pavement shall be stubbed clear of the road bed to prevent future disturbance of the road surface.
- (d) The subdivider shall show public utility easements in the subdivision, including necessary descriptions and dimensions, on the final plat in their true and correct location. The public utility easements must be of sufficient width to allow the physical placement and unobstructed maintenance of public utility facilities for the provision of public utility services within the subdivision.

5-7-2. Water Supply, Sewage Disposal and Solid Waste

- (a) *Generally.* Water supply, sewage disposal, and solid waste systems shall meet the minimum standards of the Montanan Department of Health and Environmental Sciences, as required by Title 76, Chapter 4, MCA, as amended, and all other applicable state and local regulations, (See: 76-3-504(6)(c), MCA). At a minimum, the method of solid waste disposal shall be specified during preliminary plat review.
- (b) *On-site dumps.* Any and all existing on-site dumps or solid waste disposal sites on a proposed subdivision shall be identified by the applicant and/or his agent, and evaluated by the appropriate state or local regulatory agency for potential environmental impacts.
- (c) *As-Built Drawing Required.* When a developer installs central water and/or central sewer facilities within or for the benefit of a subdivision, the developer shall submit as-built drawings to the appropriate utility provider for written approval.

5-7-3. Mail Service

Where mail delivery will not be provided to each individual lot, the subdivider shall provide an off-road area for central mail delivery within the subdivision.

5-7-4. Fire Protection

- (a) *Basic Fire Protection Required.* Each lot shall be located within a fire district.
- (b) *Fire Hydrants.* Every subdivision served by a municipal water system shall include a system of fire hydrants sufficient to provide adequate fire protection for the buildings intended to be within the subdivision. The municipality in consultation with the fire chief shall determine the number and location of the fire hydrants or waive this requirement in writing based on a written finding that the hydrants are not needed.

ARTICLE 8. GRADING AND STORM WATER DRAINAGE

5-8-1. General Requirements

- (a) *Generally.* The subdivider shall provide suitable storm water drainage facilities, including retention and detention structures. All surface runoff, in addition to that normally present before

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- the subdivision, shall be retained on site or released from the site in a manner which will not substantially increase the peak runoff normally present before subdivision.
- (b) *Design.* Subdivisions shall be designed to retain or detain storm water generated on the subject property. Grading and storm water drainage plans shall be submitted with the preliminary plat in conformance with Section 3-1-5 (a) (xxxix) (D). Final plans shall be submitted with the final plat. For those subdivisions requiring Montana Department of Environmental Quality (MDEQ) approval of the storm water drainage plans, the final plans submitted shall have been approved by MDEQ.
 - (c) *Minimum Standards.* All drainage systems shall meet the minimum standards of the Montana Department of Environmental Quality as required by MCA Title 76, Chapter 4, Part 1, as amended, and all applicable state and local regulations.
 - (d) *Installation of Storm Water Drainage Facilities.* Facilities for the collection of storm water runoff shall be installed prior to or concurrent with any other improvements and be designed to divert surface water away from cut faces or sloping surfaces of a fill. Facilities shall be installed with the grading and storm water drainage plan approved by MDEQ. In cases where MDEQ approval is not required, the facilities shall be installed in accordance with the grading and storm water drainage plan approved with the preliminary plat application. All storm water facilities shall be protected from erosion or silt deposition during construction of both public and private improvements.
 - (e) *Certification of Improvements.* All drainage structures installed shall be certified by a licensed professional.
 - (f) *Maintenance of Storm Water Drainage Facilities.* The subdivider is required to provide a mechanism for maintenance of storm water drainage facilities for a subdivision.
 - (g) *Natural Drainages.* Natural drainage ways shall be preserved except for necessary crossings in which the capacity of existing drainage ways shall be preserved. Drainage ways shall remain clear and open and shall not be obstructed with fences, structures, etc. Lots shall be arranged to preserve and maintain these drainage channels. Crossings shall be designed to preserve or enhance the capacity of the drainage while concurrently preserving native vegetation.

ARTICLE 9. NOXIOUS WEED CONTROL

5-9-1. General Requirements

When any action is taken within a subdivision that results in the potential for noxious weed invasion, the subdivider shall control the noxious weeds and revegetate the disturbed area(s) consistent with a weed control plan that has been approved by the Ravalli County Weed Board. (See: 7-22-2152, MCA)

ARTICLE 10. ADDITIONAL PROVISIONS FOR MOBILE HOME PARKS

5-10-1. Generally

In addition to the other design and improvements specified in this Chapter, mobile home parks shall comply with this part and the minimum requirements of the Montana Department Environmental Quality under the provisions of Title 50, Chapter 52, MCA, and all rules and regulations adopted pursuant thereto.

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5-10-2. General Requirements

- (a) *Retail Uses.* Retail uses intended specifically for the convenience and service of the residents of the mobile home park shall be designed and located in such a manner to discourage use by nonresidents of the mobile home park.
- (b) *Solid Waste.* An off-street area for the collection of solid waste shall be designated.
- (c) *Mail Delivery.* An off-street area for central mail delivery shall be designated.
- (d) *Storage.* An enclosed storage facility may be required within the mobile home park. In addition, an open area for storage or parking of boats, trailers, or other recreational vehicles belonging to residents of the mobile home park may be required.
- (e) *Street Lighting and Paving.* Street lighting and paving may be required as appropriate.
 - (1) Street lighting and paving shall be required for all newly created mobile home courts with a common interior road.
 - (2) Lighting is required for the solid waste disposal area.
- (f) *Screening.* Screening, such as fences or landscaping, along the property boundary line may be required to provide separation between adjoining land uses.

5-10-3. Mobile Home Lot

Mobile home lots shall comply with the following criteria:

- (1) Mobile home lots shall be arranged to permit the safe and practical placement and removal of mobile homes.
- (2) The limits of each mobile home lots shall be clearly marked on the ground by permanent flush stakes, markers or other suitable means. Location of lot limits on the ground must be approximately the same as shown on the acceptable plans. The degree of accuracy obtainable with an engineer's scale and a tape is acceptable. Precise engineering of lot limits is not required either on the plans or on the ground.
- (3) Mobile homes, including attached structures, such as awnings or carports, shall be located at least twenty-five (25) feet from any public road right-of-way or easement, fifteen (15) feet from other boundary lines of the park, ten (10) feet from the road that directly serves it, and twenty (20) feet from any other mobile home or its attached structures.
- (4) Detached structures, such as storage sheds shall be located at least twenty-five (25) feet from any public road right-of-way or easement, fifteen (15) feet from other boundary lines of the park, ten (10) feet from the road that directly serves it, and ten (10) feet from any other mobile home or its attached structures.
- (5) The size of the mobile home pad shall be suitable for the general market to be served and fit the dimension of the mobile homes anticipated.
- (6) The Board of County Commissioners may require that the mobile home stand be improved to provide adequate support for the placement and tie-down of the mobile home.
- (7) A mobile home pad may not occupy more than one-third (1/3) of the area of its lot area. The total area occupied by a mobile home and its roofed accessory buildings and structures may not exceed two-thirds (2/3) of the lot area.

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5-10-4. Streets and Parking Requirements

Streets and parking spaces shall comply with the following criteria:

- (1) A minimum of two (2) off-street parking spaces shall be provided for each mobile home lot. Parking may be in tandem. The driveway shall be located to allow for convenient access to the mobile home. The minimum width shall be ten (10) feet.
- (2) One (1) guest parking space for each ten (10) mobile home lots shall be provided. Group parking may be provided.
- (3) Streets shall be designated to permit safe placement and removal of mobile home units.
- (4) Roadways in a mobile home park shall not be dedicated to public use.
- (5) The entrance road(s) to mobile home park shall have direct connections to a public street and shall be designed to allow free movement of traffic on such adjacent public streets. No parking shall be permitted on the entrance road(s) for a distance of one hundred (100) feet from its point of beginning.

5-10-5. Miscellaneous Utilities

- (a) *Electrical.* Electrical system installation within a mobile home park shall be designed and constructed in accordance with the applicable codes and adopted by the authority having jurisdiction. Where the state or county does not assume jurisdiction, such installations shall be designed and constructed in accordance with the applicable provisions of the "National Electrical Code" (NFPA No. 70-1987).
- (b) *Natural Gas/Propane.* Gas equipment and installations shall be designed and constructed in accordance with the applicable codes adopted by the authority having jurisdiction. Where the state or county does not assume jurisdiction, such installation shall be designed and constructed in accordance with the appropriate provisions of the "National Fuel Gas Code" (NFPA No. 54-1981) and the "Standards for the Storage and Handling of Liquefied Petroleum Gases" (NFPA No. 58-1981). A readily accessible and identified shutoff valve controlling the flow of gas to the entire gas piping system shall be installed near to the point of connection of the liquefied petroleum gas container. Each mobile home lot shall have an accessible, listed gas shutoff valve installed. Such valve shall not be located under a mobile home. Whenever the mobile home lot outlet is not in use, the shutoff valve shall be plugged to prevent accidental discharge.

ARTICLE 11. ADDITIONAL PROVISIONS FOR RECREATIONAL VEHICLE PARKS

5-11-1. General Requirements

- (a) *Retail Uses.* Retail uses intended specifically for the convenience and service of the residents of the recreational vehicle home park shall be designed and located in such a manner to discourage use by nonoccupants.
- (b) *Solid Waste.* An off-street area for the collection of solid waste shall be designated.
- (c) *Screening.* Screening, such as fences or landscaping, along the property boundary line may be required to provide separation between adjoining land uses.
- (d) *Setbacks.* Mobile homes, including attached structures, such as awnings or carports, shall be located at least twenty-five (25) feet from any public road right-of-way or easement, fifteen (15) feet from other boundary lines of the park, ten (10) feet from the road that directly serves it, and twenty (20) feet from any other mobile home or its attached structures.

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- (e) *Lot Design.* Recreational vehicle lots shall be arranged to facilitate placement and removal of vehicles from individual lots.

CHAPTER 6. PARK REQUIREMENTS

6-1-1. Table of Contents

- 6-1-1. Table of contents
- 6-1-2. General description
- 6-1-3. Findings
- 6-1-4. Purpose
- 6-1-5. Park dedication/donation requirements
- 6-1-6. Use of land and cash donation
- 6-1-7. Methods to determine fair market value
- 6-1-8. Waivers of park dedication requirement

6-1-2. General Description

This Chapter describes the minimum standards that subdivisions must meet for parkland dedication; exempts certain types of subdivisions and lots; and waives the parkland dedication for certain types of developments. (See: 76-3-504(7), MCA)

6-1-3. Findings

The Board of County Commissioners makes the following findings:

- (1) The Montana Subdivision and Platting Act (Title 76, Chapter 3, MCA) specifies which subdivisions must dedicate a part of the subdivision for park purposes or contribute towards the city or county park fund.
- (2) The 1995 Legislature amended the Montana Subdivision and Platting Act (Title 76, Chapter 3, MCA), to exclude minor subdivisions from dedicating parkland (previously only two-lot splits were exempt).
- (3) The 1995 Legislature amended the Montana Subdivision and Platting Act (Title 76, Chapter 3, MCA) to exclude those lots that are 5 acres or larger (previously it was 10 acres or larger).
- (4) The previously mentioned amendments create a financial disincentive for developers to create major subdivisions with lots less than 5 acres in size.
- (5) The creation of residential lots through the subdivision process allows more residences to be built in the county which creates additional need for public recreational areas.
- (6) Rather than mandating a single method to achieve the purposes of this Chapter, it is appropriate to provide some options so that the best development may result.

6-1-4. Purpose

The purpose of this Chapter is to define the park standards and state the permissible uses for the land or cash donation.

6-1-5. Park Dedication/Donation Requirements

- (a) *Generally.* As a condition of filing the final plat, the subdivider shall accomplish one, or any combination, of the following:
 - (1) Make a land donation to the County;
 - (2) Make a cash donation to the County;

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- (3) Reserve land within the subdivision for the recreational uses for those within the development; and/or
- (4) Reserve land for one or more of the following purposes:
 - (a) Protection of critical wildlife habitat;
 - (b) Protection of cultural, historical, or natural resources;
 - (c) Protection of agricultural interests, including preservation of agricultural land and creation of buffers; or
 - (d) Protection of aesthetic values, including open space and scenic vistas. (See: 76-3-621(6)(b), MCA)
- (b) *Exemptions.* The following are exempt from this Chapter:
 - (1) Minor subdivisions in which only one additional parcel is created; or
 - (2) Lots larger than five (5) acres; or
 - (3) Major subdivisions where all the parcels are for nonresidential purposes; or
 - (4) Minor or major subdivisions where parcels are not created, except when that subdivision provides multiple spaces for recreational camping vehicles, mobile homes, or condominiums. (See: 76-3-621(3)(d), MCA)
- (c) *Amount of Dedication In Absence of Master Plan.* In the absence of a master plan that includes density requirements, the total amount of land or cash donation or land dedication or any combination thereof shall be based on the size of the proposed lots with the proposed subdivision as shown in the following table:

Table 6-1-1.

Park Dedication/Donation Worksheet

	Lots 0.5 Acres or Smaller	Lots Larger than 0.5 Acre to 1.0 Acre	Lots Larger than 1.0 Acre to 3.0 Acres	Lots Larger than 3.0 Acres to 5.0 Acres	Lots Larger than 5.0 Acres	Total
A. Number of Lots						
B. Total Number of Acres (Round to the nearest tenth)						
C. Park Standard Stated as a Percentage of Total Lot Area	11.0 Percent	7.5 Percent	5.0 Percent	3.5 Percent	N/A	N/A
D. Area Requirement in Acres (Multiply Row B by Row C and round to the nearest hundredths)					0.00	

E. Area Requirement in Acres (Transfer the Total from Row D) If zero, no dedication is required. If greater than zero, complete Lines F through K.

F. Proposed Land Donation to the County in Acres

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G. Proposed Land Dedication in Acres	
H. Total Land Donation and Dedication in Acres (Add F and G)	
I. Difference (Subtract H from E) If answer is zero, no cash donation is required. If answer is a negative value, then the amount of land donation and/or land dedication exceeds the required park standards. If answer is a positive value, complete remainder of Worksheet to determine cash donation.	
J. Fair Market Value of One Acre (Refer to Section 6-7)	
K. Cash Donation (Multiply I by J)	

(See: 76-3-621, MCA)

- (d) *Amount of Dedication With Master Plan.* When the County adopts a master plan which includes density requirements, the Board of County Commissioners may establish park dedication requirements based on community needs, but may not exceed 0.03 acres per dwelling unit. (See: 76-3-621(2), MCA)
- (e) *Basis of Decision for Type of Dedication.* After consultation with the subdivider and the Park Board, the Board of County Commissioners shall determine whether the park requirement shall be met by a land donation, cash donation, land dedication, or any combination thereof. (See: 76-3-621(4), MCA) Such determination shall balance the following considerations:
- (1) Expressed preference of the subdivider; (See: 76-3-621(4), MCA)
 - (2) Consistency with the Growth Policy, specifically the recreation and open space chapters;
 - (3) Significance of the land donation or land dedication for its intended purpose. For example, if land is being dedicated for aesthetic qualities, then it should be readily apparent that the proposed land dedication is a valuable asset to the county and preserves important aesthetic qualities;
 - (4) Suitability of the land donation or land dedication for its intended purpose (e.g. parcel size, topography, shape, location, aesthetic qualities, or other circumstance.)
- (f) *Location of Land Donation or Land Dedication.* The land being donated or dedicated in fulfillment of this section can be either located:
- (1) within the subject property, or
 - (2) on another parcel, provided the subdivider agrees to such arrangement and the land dedication is within close proximity to the proposed subdivision,
 - (3) subject to the approval of the BCC and acceptance by the local school district trustees, a subdivider may dedicate a land donation to a school district, adequate to be used for school facilities or buildings.
- (g) *Requirement for Land Dedication.* As a condition of filing the final plat, the subdivider shall preserve or otherwise protect the land dedication for the intended purpose. When land is dedicated for recreational purposes, the dedication shall be permanent and when land is dedicated for other permissible uses as outlined in Section 6-5(a), the dedication shall provide for long-term protection of the resource. For example, if land is being dedicated for its open space qualities,

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then the subdivider must use a conservation easement, deed restriction, or other mechanism that is acceptable to the County, to limit or prohibit development on the dedicated land to preserve the open space qualities. (See: 76-3-621(6)(a) and (6)(b), MCA)

6-1-6. Use of Land and Cash Donation

- (a) *Generally.* The County shall use the land or cash donation for the development, acquisition, or maintenance of parks to serve the subdivision. (See: 76-3-621(5)(a), MCA)
- (b) *Use of Land Donation.* The County shall hold, manage, develop, and maintain donated lands for recreational purposes consistent with the Growth Policy, unless it is disposed of consistent with the Growth Policy. (See: 76-3-621(5)(a), MCA)
- (c) *Use of Cash Donation.* The cash donation shall be deposited in the County Park Fund and shall be used to acquire, develop, or maintain parks and recreational areas within the county and/or to purchase public open space or conservation easements within the county provided:
 - (1) the park, recreational area, open space, or conservation easement is within close proximity to the proposed subdivision;
 - (2) the County has a formally adopted park plan that establishes the needs and procedures for use of the money; and
 - (3) no more than 50 percent of the dedicated money can be used for park maintenance. (See: 76-3-621(5)(b) and (5)(c), MCA)

6-1-7. Methods to Determine Fair Market Value

- (a) The cash donation in-lieu of land dedication shall be equal to the fair market value of the amount of land that would have been statutorily required to be dedicated. For the purpose of these regulations, the fair market value is the value of the unsubdivided, unimproved land based upon comparable sales that apply to the proposed subdivision. Fair market value shall be determined by a Montana State licensed general real estate appraiser or a real estate appraiser legally qualified to appraise undeveloped land (as provided under M.C.A. 37-54-201 et seq) hired and paid for by the subdivider. A copy of the appraisal report shall be provided to the governing body for calculating the cash-in-lieu donation prior to final plat approval.
- (b) *Independent Appraisals.* The Board of County Commissioners may request an additional appraisal by a Montana State licensed general real estate appraiser or a real estate appraiser legally qualified to appraise unsubdivided, undeveloped land (as provided under M.C.A. 37-54-201 et seq) and set the market value after considering both determinations.

6-1-8. Waivers of Park Dedication Requirement

- (a) The BCC may waive the park dedication requirement if the subdivider provides land outside the subdivision that affords long-term protection of critical wildlife habitat, cultural, historical, or natural resources, agricultural interests, or aesthetic values; and or exceeds the area of the required dedication.
- (b) The BCC shall waive the park dedication requirement if:

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- (i) the preliminary plat provides for a development with land permanently set aside for park and recreational uses sufficient to meet the needs of the persons who will ultimately reside in the development; and the area of the land and any improvements set aside for park and recreational purposes equals or exceeds the area of the required dedication in Section 6-1-5;
- (ii) the preliminary plat provides long-term protection of critical wildlife habitat; cultural, historical, or natural resources; agricultural interests; or aesthetic values; and the area of the land proposed to be subdivided, by virtue of providing long-term protection provided for in subsection (6)(b)(i), is reduced by an amount equal to or exceeding the area of the required dedication in Section 6-1-5;
- (iii) the area of the land proposed to be subdivided, by virtue of a combination of the provisions of subsections (b)(i) and (b)(ii), is reduced by an amount equal to or exceeding the area of the required dedication in Section 6-1-5; or
- (iv) the subdivider provides for land outside of the subdivision to be set aside for park and recreational uses sufficient to meet the needs of the persons who will ultimately reside in the subdivision; and the area of the land and any improvements set aside for park and recreational uses equals or exceeds the area of required dedication in Section 6-1-5.

CHAPTER 7. VARIANCES

7-1 PURPOSE

The purpose of this Chapter is to describe the procedures, requirements, and criteria for processing and reviewing variance applications.

7-2 LIMITATIONS ON VARIANCE REQUESTS

Variance requests shall be limited to the design and development standards in Chapter 5. Design exceptions provided for in AASHTO publications listed as items 4, 5 and 7 of Table A-1 in Chapter 5 shall not be considered variances and shall be processed in accordance with the County's adopted policy regarding design exception practices.

7-3 VARIANCE APPLICATION AND REVIEW REQUIREMENTS

7-3-1. Initiation

An application shall only be submitted by the property owner, or any person having a contractual interest in the property, or by an authorized agent. The variance application may be submitted prior to or concurrent with the submittal of a subdivision application, and may be submitted prior to the final plat approval if the subdivision has been approved or conditionally approved.

7-3-2. Initial Variance Application and Review Requirements

- a. Submittal of Application. The applicant shall submit a complete application, including the contents listed in Section 3-1-5(a)(xxxiv) to the Planning Department, along with the appropriate fee, in accordance with the adopted fee schedule.
- b. Element Review. For variance applications received without a subdivision application, receipt of the variance application will meet the Element Review requirements in Section 3-1-6(a).
- c. Sufficiency Review. Sufficiency Review of a Variance Application (the subsections of Section 3-1-5(a)(xxxiv)) shall be conducted in accordance with Section 3-1-6(b).
- d. Applicable Regulations. Refer to Section 3-1-6(c) for the applicable regulations for variance applications.

7-3-3. Time Period for Approval, Conditional Approval, or Denial

- a. Major and Subsequent Minor Subdivisions. Refer to Section 3-2-3.
- b. First Minor Subdivisions. Refer to Section 3-3-3.

7-3-4. Variance Review Procedures

- a. Major and Subsequent Minor Subdivisions. Refer to Sections 3-2-4. Public Hearing - Notification Requirements, 3-2-5. Subdivider's Preference for Mitigation, 3-2-6. Public Hearing

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Procedural Requirements, and 3-2-7. Subsequent Public Hearing. Refer to Section 7-3-5 for BCC Decision and Documentation.

- b. First Minor Subdivisions. Refer to Sections 3-3-4. Public Meeting Notice, 3-3-5. Subdivider's Preference for Mitigation, and 3-3-6. Public Meeting - Procedure. Refer to Section 7-3-5 for BCC Decision and Documentation.

7-3-5. BCC Decision and Documentation

- a. Variance Review Criteria.

The BCC, in reviewing a variance from these regulations, shall first determine that strict compliance with these regulations will result in undue hardship and when compliance is not essential to the public welfare. Following this determination, the BCC shall not approve the variance application unless it makes an overall positive finding, based on substantial competent evidence, on the following criteria:

- i. The granting of the variance will not be substantially detrimental to the public health, safety or general welfare or injurious to other adjoining properties.
 - ii. The conditions on which the request for a variance is based are unique to the property on which the variance is sought and are not applicable generally to other property.
 - iii. Physical conditions, such as topography or parcel shape, prevent the applicant from meeting the strict letter of these regulations. These conditions shall not result from the past actions of the land's current or previous owner(s).
 - iv. The variance will not in any manner vary the provision of the zoning regulations or the Growth Policy.
 - v. The variance will not cause a substantial increase in public costs.
- b. Evidence.

In making its decision to approve, conditionally approve, or deny a proposed variance, the BCC may consider and weigh the following, as applicable:

- i. The variance application;
- ii. Subdivider's expressed preference for mitigation;
- iii. An officially adopted growth policy, which shall be considered as one factor and shall not be the sole basis for any decision;
- iv. Comments, credible evidence and discussions at the public hearing(s)/meeting(s);
- v. Planning Department's staff report and recommendation;
- vi. Planning Board's comments; and
- vii. Any additional information authorized by law.

7-3-6. Imposition of Conditions

In issuing a variance, the Board of County Commissioners may impose such conditions and restrictions upon the premises benefited as may be necessary to allow a positive finding to be made on any of the foregoing factors, or to minimize the injurious effect of the variance.

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7-3-7. Documentation of BCC Decision

- a. In rendering its decision to approve, conditionally approve, or deny the variance application, the BCC shall issue written findings of fact that evaluate the variance application with the variance review criteria in Section 7-3-5(a).
- b. When the BCC approves, denies, or conditionally approves the variance application, it shall send the subdivider a signed variance application decision, with the appropriate signature. The variance application decision shall:
 - i. Contain information regarding the appeal process for the denial or imposition of conditions;
 - ii. Identify the regulations and statutes that are used in reaching the decision to approve, deny, or impose conditions and explain how they apply to the decision;
 - iii. Provide the facts and conclusions that the BCC relied upon in making its decision and reference documents, testimony, or other materials that form the basis of the decision;
 - iv. Provide the conditions that apply to the variance application approval and that must be satisfied before the final plat may be approved; and
 - v. Set forth the time limit for approval, pursuant to Section 7-4 below.

7-4 DURATION OF VARIANCE APPROVAL

An approved variance shall run with the land and shall expire 30 months after the date of approval or earlier by Board action unless the final plat is filed for the entire subdivision, or in the case of phased subdivisions, for the first phase.

Exhibit A
List of County-Maintained Roads

A-STREET (VICTOR)	CAMAS CREEK LOOP	EAST FORK ROAD	GRIZZLY WAY	IROQUOIS TRAIL
ALBERTA WAY	CAMP CREEK ROAD	EAST ST (CORVALLIS)	GROFF LANE	JONES ROAD
ALVISTA LOOP	CAMP THREE LANE	EAST ST SO (CORVALLIS)	GROUSE BUTTE LANE	JOSHUA WAY
AMBROSE CREEK RD	CANYON CREEK ROAD	EDWARDS ROAD	GRUNDY LANE	KLEMMENT'S LANE
ANDY VOGT LANE	CARLTON DRIVE	EIGHT MILE CREEK ROAD	HAMBY LANE	KOCH LANE
ANTIGONE DR	CARTWRIGHT WAY	EL CAPITAN LOOP	HAMILTON AIRPORT ROAD	KOOTENAI CREEK ROAD
B-STREET (VICTOR)	CASCADE STREET	ERIE AVENUE	HAMILTON HEIGHTS ROAD	KRUEGER LANE
BAILEY AVE (HAM)	CASH NICHOLS ROAD	FAIRGROUNDS ROAD	HANNAFORD AVE	KURTZ LANE
BAILEY LANE	CEDAR STREET	FAIRWAY ROAD	HART BENCH ROAD	LA FONTAINE ROAD
BALDWIN ROAD	CENTER COURT	FARREL STREET	HARVEY LANE	LAKE COMO ROAD
BARRETT STREET	CENTER STREET (83C)	FIFTH STREET (VICTOR)	HATTIE LANE	LARRY CREEK ROAD
BASS CREEK LOOP	CHAFFIN LANE	FIRST AVE (STEV)	HAWKER LANE	LEAVENS RD (HART BENCH LP)
BASS CREEK ROAD	CHAPMAN LANE	FIRST ST (CORVALLIS)	HAYES CREEK ROAD	LEESE LANE
BASS LANE	CHIEF VICTOR CAMP RD	FIRST ST (FLORENCE)	HEACOCK AVENUE	LEWIS LANE
BEAR CREEK ROAD	CHERRY ORCHARD LP	FISH HATCHERY ROAD	HEAVENLY TWIN WAY	LICK CREEK ROAD
BEAR CREEK TRAIL	CHIEF LOOKING GLASS RD	FLETCHER LANE	HELEN COURT	LINCOLN LANE
BEAR PAW COURT	CHRISTOFFERSON LN	FLORENCE CARLTON LOOP	HIDDEN VALLEY ROAD	LINDER AVE (FLORENCE)
BELL CROSSING (WEST)	CHURCH ST (CORVALLIS)	FLOWER STREET	HIGH ROAD	LITTLE BRITCHES DRIVE
BELLE FLEUR LANE	CIRCLE DRIVE	FOLEY LANE	HILLCREST DRIVE	LITTLE COREY PLACE
BELMONT AVE	CO R/W (GRANTSDALE) 2nd St	FORREST HILL ROAD	HILL TOP DRIVE	LITTLE JOE LANE
BEN DRIVE	CO R/W (GRANTSDALE) Wall St	FOURTH ST (VICTOR)	HOBLOTT LANE	LITTLE SLEEPING CHILD ROAD
BIG CORRAL ROAD	COAL MINE ROAD	FOX FARM ROAD	HOLLIBAUGH ROAD	LOGAN LANE
BIRCH CREEK LOOP	COAL PIT ROAD	FRED BURR ROAD	HOLLORAN LANE	LOMA LANE
BIRCH STREET	CONNER CUTOFF	FREEZE LANE	HOLLOWAY LANE	LONE ROCK SCHOOL ROAD
BLACK LANE	CONRAD STREET	FRENCH BASIN ROAD	HOLLY LANE	LONG AVENUE
BLAIR LANE	COOPER LANE	GENEVA AVENUE	HOME ACRES ROAD	LONGLEY LANE
BLAKE ST (VICTOR)	COREY LANE	GERER LANE	HONEY LANE	LOST HORSE ROAD
BLODGETT CAMP RD	CORVALLIS CEMETARY RD	GLENROY AVENUE	HONEYHOUSE LANE	LOWER MILL CREEK ROAD
BLODGETT VIEW DR	COUNTRY CLUB LANE	GOLD CREEK LOOP	HOOVER LANE	LOWER WOODCHUCK ROAD
BLOOD LANE	CURLEW ORCHARD RD	GOLF COURSE ROAD	HOSS DRIVE	LUBY LANE
BOURNE LANE	DALY AVENUE	GORUS LANE	HUB LANE	MACK SMITH LANE
BOWMAN ROAD	DORAN LANE	GRANITE CREEK ROAD	HUGHES CREEK ROAD	MAIN ST (CORVALLIS)
BROADWAY ST (VICTOR)	DRY GULCH ROAD	GRANT LANE	ILLINOIS BENCH RD	MANHATTAN LANE
BUGLI LANE	DUTCH HILL ROAD	GRANTSDALE CEMETARY ROAD	INDIAN MEADOWS DRIVE	MARCUS STREET
BUMPY LANE	DUUS LANE	GRANTSDALE CUTOFF	INDIAN PRARIE LOOP	MARIN LANE
BUNKHOUSE LANE	EAGLE FEATHER LANE	GRANTSDALE ROAD	IRON CAP DRIVE	MARIAN PARKWAY

MARKET STREET	NORTH SUNSET BENCH RD	SAINT MARY'S DRIVE	SURPRISE ST (CORVALLIS)	WESTWOOD DRIVE
MARTIN LANE	OERTLI LANE	SAINT MARY'S ROAD	SUTHERLAND LANE	WHEELBARROW CREEK RD
MARTIN ST (VICTOR)	OILWELL ROAD	SALISH TRAIL	SWEATHOUSE CREEK RD	WHITE'S LANE
MCARTHUR LOOP	OLD CORVALLIS ROAD	SAPPHIRE LANE	SWEENEY CREEK LOOP	WICKIUP DRIVE
MCINTOSH LANE	OLD DARBY ROAD	SAWMILL LANE (11-03-90)	TAMMANY HILL	WILCOX LANE
MCINTYRE ROAD	OLD EASTSIDE HIGHWAY	SECOND AVENUE (STEVENSVILLE)	TAMMANY LANE	WILDFOWL LANE
MCKILLIP LANE	OLD HWY 93 (FLORENCE)	SECOND ST (CORVALLIS)	TAULMAN AVE	WILLOUGHBY LANE
MCVEY ROAD	OLIVER ROAD	SECOND ST (FLORENCE)	TEEPER DRIVE	WILLOW CREEK CROSS RD
MCWILLIAMS DRIVE	ONE HORSE CREEK ROAD	SECOND ST (STEVENSVILLE)	THIRD AVE (VICTOR)	WILLOW CREEK ROAD
MEADOW LANE	ORCHARD DRIVE	SHADY LANE	THORNING LOOP	WINKLER LANE
MEADOW VISTA DRIVE	ORR LOOP (HART LOOP)	SHARROT HILL LOOP	THOUSAND ACRE ROAD	WINTERS LANE
MEADOWLARK LANE	OVERTURF ROAD (86A)	SHEAFMAN CREEK ROAD	THREE MILE CREEK ROAD	WOOD LANE
MEDICINE SPRINGS ROAD	OWINGS CREEK ROAD	SHEARBROOK LANE	TIE CHUTE LANE	WYANT LANE
MERIDIAN ROAD	PARK LANE	SILVERBOW COURT	TIN CUP ROAD USFS	YERIAN LANE
MEYER LANE	PINE HOLLOW ROAD	SILVERBOW DRIVE	TOTEM VIEW LANE	ZIMMERMAN LANE
MIDDLE BEAR CREEK RD	PLEASANT VIEW DRIVE	SIMPSON ROAD	TRIPP LANE	
MIDDLE BURNT FORK ROAD	PONDEROSA DRIVE	SIXTH STREET (VICTOR)	TUCKER CROSSING EAST	
MIHARA LANE	PONY PALACE WAY	SKY PILOT LANE	TUDOR ST (VICTOR)	
MILL CREEK ROAD	POPHAM LANE	SLEEPING CHILD ROAD	TUSHAPAW ROAD	
MILL CREEK TRAIL	POPPY LANE	SMITH CREEK LANE	UPPER BURNT FORK SCH RD	
MILL STREET	PORTER HILL ROAD	SOFT ROCK ROAD	UPPER WOODCHUCK ROAD	
MILLER HILL ROAD	QUAST LANE	SOUTH 2ND (HAMILTON)	VAN BLARICOM LANE	
MITTOWER ROAD	QUEENS COURT	SOUTH 5TH (HAMILTON)	VICTOR CROSSING	
MOISE LANE	RANGER LANE	SOUTH 6TH (HAMILTON)	VICTOR MAIN EAST	
MOLES LANE	RATHBUN LANE	SOUTH BURNT FORK RD	VICTOR MAIN WEST	
MONTANA AVENUE	RAVALLI STREET	SOUTH CREST AVENUE	WADDELL LANE	
MOUNTAIN VIEW DRIVE	RED CROW ROAD	SOUTH KOOTENAI CREEK RD	WAGNER LANE	
MOUNTAIN VIEW ORCHARD DR	RED RANCH ROAD	SOUTH SAPPHIRE DRIVE	WAKANTANKA WAY	
NEZ PERCE ROAD (USFS) #468	REDJOU LANE	SOUTH SHOSHONE LOOP	WARBLER LANE	
NICOL LANE	RICKETTS ROAD	SOUTH SUNSET BENCH RD	WATER ST (CORVALLIS)	
NIGHTHAWK LANE	RIDGE ROAD	SPOONER CREEK LANE	WATER ST (DARBY)	
NOLAND DRIVE	RIVERSIDE CUTOFF	SQUIRE ROAD	WATT LANE	
NORDHEIM LANE	ROARING LION ROAD (USFS)	SQUIRES LANE	WEBER DRIVE	
NORTH 10TH (HAMILTON)	ROOSEVELT LANE	STEVI AIRPORT ROAD	WERTH LANE	
NORTH BARBARA DRIVE	ROSE LANE	STEVI CUTOFF (Stevl West)	WEST BRIDGE ROAD	
NORTH BIRCH CREEK RD	ROSEMONT LOOP	STEVI RIVER ROAD	WEST FORK ROAD (Hwy 91)	
NORTH BURNT FORK RD	RUMMEL LANE	STORE LANE	WEST HILLS WAY	
NORTH KOOTENAI CREEK RD	RUMMEL STREET (HAMILTON)	SUMMERDALE ROAD	WEST RIVER ROAD	
NORTH SAPPHIRE STREET	RYE CREEK ROAD	SUNNYSIDE CEMETARY RD	WEST VIEW DRIVE	
NORTH SHOSHONE LOOP	SAINT JOSEPH LANE	SUNSET DR (HAMILTON)	WESTSIDE ROAD	